ORIGINAL

RUSSELL MARTÍN E-67269 A1-135 MULE CREEK STATE PRISON P.O. BOX 409099 IONE, CALIFORNIA 95640

> UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION TO

4067

RUSSELL MARTIN PLAINTIFF.

VS.

M.S. EVANS, WARDEN et OL., DEFENDANTS.

CASE NO COMPLAINT FOR INJUNCTIVE RELIEE AND DAMAGES;

DEMAND FOR TURY TRIAL

FILED

AUG 2 8 2008

PREVIOUS LAWSUITS.

HAVE YOU BROUGHT ANY OTHER LAWSWITS WHILE A PRISONER? YES IF YOUR ANSWER TO A IS YES HOW MANY? TWO PLAINTIFF RUSSELL MARTIN. DEFENDANT STUART T. RYKN. SUPERIOR COURT OF CALIFORNIA, LOUNTY OF IMPERIAL. DOCKET NO! BCL 07400 . ASSIGNED JUDGE JEFFREY B. JONES FILING MATE 1/24 low. DISPOSITION MATE, STILL PENDING.

PLAINTIFF RUSSELL MARTIN. DEFENDANTS, UZZLE, AND ShIEFELBIEN U.S. DISTRECT COURT, FOR THE EASTERN DISTRICT OF CALIFORN IN DOCKETNO: 1:06 .CV-00972 OWW-GSA PC" ASSIBNED JUDGE . GARY S. AUSTIN . FILING DATE 3/27/07 DISPOSITION DATE STILL PENDING



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> UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

RUSSELL MARTIN,

V5.

CASE NO.

PLAINTIFF

COMPLAINT FOR IN SUNCTIVE RELIEF AND DAMAGES!

DEMAND FOR TURY TRIAL

M.S. EVANS, WALDEN et OL.,

JURISDICTION

1. This COURT BAS SURISDICTION OVER THIS COMPLAINT BECAUSE IT ARISES UNDER THE LAWS OF THE UNITED STATES. THEREFORE SURISDICTION IS PROPER UNDER 28 U.S. C \$\$ 1331 AND 1343.

VENUE

2. VENUE IS APPROPRIATE IN THIS COURT BECAUSE ALL THE DEFENDANTS RESIDE IN
THIS DISTRICT, AND A SUBSTANTIAL AMOUNT OF THE ACTS AND OMISSIONS GIVING
RISE TO THIS LAWSUIT OCCURRED IN THIS DISTRICT.

INTRADISTRICT ASSIGNMENT

3. This LAWSUIT Should BE ASSIGNED TO THE SAN FRANCISCO DIVISION OF THIS

COURT BECAUSE A SUBSTANTIAL PART OF THE EVENTS OR OMISSIONS WHICH

GIVE RISE TO THIS LAWSUIT OCCURRED IN MONTEREY COUNTY.

INTRODUCTION

4. This is A CLAIM FOR DAMAGES AND INSUNCTIVE RELIEF BROUGHT UNDER 42 U.S.C.
§ 1983 AGAINST PRISON OFFICIALS FOR VIOLATIONS OF PLAINTIFF EIGHTH
AMENDMENT RIGHTS TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT AS

PROTECTED BY THE EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

SPECIFICALLY AT ISSUE ARE PLAINTIFF'S RIGHTS TO BE FREE FROM THE USE OF

EXCESSIVE FORCE AND TO HAVE PERSONAL SAFETY. PLAINTIFF ALSO COMPLAINS

HEREIN ABOUT UNLAWFUL RETALIATION CONSTITUTING CRUEL AND UNUSUAL

PUNISHMENT. PLAINTIFF PRAYS FOR DAMAGES AND INSUNCTIVE RELIEF, HE HAS

EXHAUSTED THE ADMINISTRATIVE REMEDIES FOR INSUNCTIVE RELIEF AND HAS

NOT UTILIZED THE ADMINISTRATIVE PROCESS FOR DAMAGES, BASED UPON FUTILITY.

PARTIES

- 5. PLAINTIFF RUSSELL MARTIN IS A 43 YEAR OLD MALE, AFRICAN AMERICAN
 RESIDENT OF THE STATE OF EALIFORNIA, CURRENTLY INLARCERATE & BYT'
 DEPARTMENT OF CORRECTIONS ("LDC") AT SALINAS VALLEY STATE PRIS
 ("SVSP") IN MONTEREY, CALIFORNIA. AT ALL TIMES MENTIONED IN THIS
 COMPLAINT, PLAINTIFF WAS A PRISONER WITHIN THE LDC SYSTEM.
- 6. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON ALLEGES, THAT A.

 TIMES MENTIONED IN THIS COMPLAINT DEFENDANT WARDEN M.S. EVAN

 ("M. EVANS") WAS THE WARDEN OF SVSP, AND WAS RESPONSIBLE FOR THE

 SUPERVISION OF SUBORDINATE PERSONNEL, AS WELL AS FOR THE SAFETY

 AND PROTECTION OF ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.
- 7. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON BLLEGES, THAT AT ALL
 TIMES MENTIONED IN THIS COMPLAINT DEFENDANT CHIEF DEPUTY WARDEN
 ("CDW") L. TREXLER, WAS THE CDW OF SYSP, AND WAS RESPONSIBLE FOR
 THE SUPERVISION OF SUBORDINATE PERSONNEL AS WELLAS FOR THE SAFETY.
 AND PROTECTION OF ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.
- 8. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON ALLEGES, THAT AT ALL TIMES
 MENTIONED IN THIS COMPLAINT DEFENDANT CORRECTIONAL OFFICER
 LIEUTENANT ("LT") C. J. WARFIELD ("C. WARFIELD") WAS THE SENIOR
 HEARING OFFICER ("SHO") AND WAS RESPONSIBLE FOR THE AD JUDICATION OF MY
 CDC RULE VIOLATION REPORT ("RVR") AT SVSP. C. WARFIELD IS A PROPERLY
 TRAINED LT WHO IS AND HAS BEEN RESPONSIBLE FOR THE SAFETY, SECURITY,

AND PROTECTION OF ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.

- 9. PLAINTIFF IS IN FORMED AND BELIEVES, AND THEREON ALLEGES, THAT AT ALL
 TIMES MENTIONED IN THIS COMPLAINT DEFENDANT CORRECTIONAL OFFICER
 LIEUTENANT ("LT") R.A. BOCCELLA ("R. BOCCELLA") WAS THE SUPERVISING LT FOR
 FACILITY D-2 HOUSING UNIT AT SYSP. LT R. BOCCELLA IS A PROPERLY
 TRAINED LT WHO WAS POSITIONED AS FACILITY D-2 HOUSING UNIT LT WHO IS
 AND HAS BEEN RESPONSIBLE FOR THE SAFETY, SECURITY, AND PROTECTION OF
 ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.
- 10. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON ALLEGES, THAT AT ALL TIMES

 MENTIONED IN THIS COMPLAINT DEFENDANT CORRECTIONAL OFFICER SERBEANT

 ("SGT") D. WILLIAMS WAS THE SUPERVISING SGT FOR FACILITY D-2 HOUSING

 UNIT AT SYSP. SGT D. WILLIAMS IS A PROPERLY TRAINED SGT WHO WAS

 POSITIONED AS FIRST WATCH SUPERVISING SGT ON 6/28/2007 WHO IS AND

 THAS BEEN RESPONSIBLE FOR THE SAFETY, SELURITY, AND PROTECTION OF ALL

 INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.
- 11. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON ALLEGES, THAT AT ALL TIMES MENTIONED IN THIS COMPLAINT DEFENDANT CORRECTIONAL OFFICER (" 40")

 D. BEATTY WAS THE 40 FOR FACILITY D-2 HOUSING UNIT AT SYSP. 40 D.

 BEATTY IS A PROPERLY TRAINED 40 Who WAS POSITIONED AS A FIRST WATCH SELURITY CHECK OFFICER ON 6/28/2007 Who is AND HAS BEEN RESPONSIBLE FOR THE SAFETY, SELURITY, AND PROTECTION OF ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.
- 12. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREDN ALLEGES, THAT AT ALL

 TIMES MENTIONED IN THIS COMPLAINT DEFENDANT LURRECTIONAL OFFICER

 (" 6/0") D. CRAWFORD WAS THE 6/0 FOR FACILITY D. 2. HOUSING UNIT AT

 SYSP. 6/0 D. CRAWFORD IS A PROPERLY TRAINED 6/0 WHO WAS POSITIONED

 AS A FIRST WATCH CONTROL BOOTH OFFICER ON 6/28/2007 WHO IS

 AND HAS BEEN RESPONSIBLE FOR THE SAFETY, SECURITY, AND PROTECTION

 OF ALL INMATES AT THAT INSTITUTION INCLUDING PLAINTIFF.

- TIMES MENTIONED IN THIS COMPLAINT DEFENDANT HEALTH CARE

 MANAGER ("HCM) CHARLES D. LEE M.D. ("D. LEE") WAS THE

 HCM AT SVSP. D. LEE IS A PROPERLY TRAINED AND LICENSED MEDICAL

 DOCTOR WHO WAS RESPONSIBLE FOR THE MEDICAL CARE OF A!L INMATES AT

 SVSP. This included BUT NOT LIMITED TO THE SUPERVISION, DIRECTION,

 AND LOR PROPER TRAINING OF THE MEDICAL STAFF AT SVSP IN THE DELIVERY

 OF HEALTH CARE SERVILES AND THE MANAGEMENT OF HEALTH LARE PROGRAMS;

 INVOLVEMENT IN THE DETERMINATION OF PROPER MEDICAL CARE FOR ALL

 NUMBTES AT THAT INSTITUTION INCLUDING PLAINTIFF.
 - 14. PLAINTIFF IS INFORMED AND BELIEVES, AND THEREON ALLEGES, THAT AT ALL

 TIMES MENTIONED IN THIS COMPLAINT DEFENDANTS DOES I THROUGH 6

 IS EMPLOYED AT SYSP. DOES I THROUGH 6 IS RESPONSIBLE IN SOME

 MANNER FOR THE IN SURIES ALLEGED IN THIS COMPLAINT. THE TRUE NAMES

 AND CAPACITIES OF SAID DOES I THROUGH 6 ARE PRESENTLY UNKNOWN TO

 PLAINTIFF WHO THEREFORE SUES SAID DOES I THROUGH 6 BY SUCH FILTITIOUS

 NAMES AND WILL SEEK LEAVE TO AMEND THIS COMPLAINT TO ADD THEIR TRUE

 NAMES AND CAPACITIES WHEN THE SAME HAVE BEEN ASCERTAINED.

GENERAL ALLEGATIONS

15. ON JUNE 28/2007 AT APPROXIMATELY 10:30 PM AURING COUNT TIME PLAINTIFF HAD HIS CELL DOOR WINDOWS COVERED UP BLOCKING ACCESS INTO THE CELL TRYING TO GET THE LIEUTENANT OR FIRST WATCH COMMANDER OVER TO MY CELL BECAUSE I WAS BEING DENIED ACCESS TO THE COURTS AND MY LEGAL MATERIALS. DEFENDANT D. BEATTY KNOCKED ON MY CELL DOOR. I DIDN'T RESPOND HE PROCEDED TO FINISH COUNT ABOUT THREE MINUTES LATER "TO D. BEATTY RETURNED TO MY CELL DOOR AND OPENED IN THE DOOR IN DIRECT VIOLATION OF DEPARTMENTAL POLICYS AND OPERATIONAL MANUAL PROCEDURES 29 SECTION 29.5.8.1. HE HAD SOMETHING IN HIS HAND AND TRIED TO

THROW IT INTO MY CELL THROUGH THE FOOD/ MORT. I BLOCKED IT WITH MY HANDS BUT COULDN'T TELL WHAT THE ITEM WAS. I ASKED HIM WHAT WAS HE DOING ? AT THAT POINT I hAD MY HANDS ON THE FOOD PORT. CO DIBEATTY REMOVES his O.C. PEPPER SPRAY OFF his BELT. I TOLD him if HE SPRAY ME ITS ASSAULT HE TAKES TWO OR THREE STEPS BACKWARDS AND THEN KICKED THE FOOD PORTSMASHING MY FINGERS AND BUSTING UPEN MY FINGER ON MY RIGHT HAND WHICH STARTED TO BLEED IMMEDIATELY THE OVER PERINTIFF AND THE CELL FLOOR. HE THEN SPRAY ME WITH A WHOLE CAN OF D.C PEPPER SPRAY AND SLAMMED THE FOOD PORT LLOSED AND LEFT. ABOUT A MINUTE OR TWO LATER TO D. BEATTY RETURNS TO THE LELL OPENS THE FOOD PORT AGAIN DROPS A PIECE OF TORN SHEET ON THE CELL FLOOR AND STARTS YELLING STOP TRYING TO KILL YOURSELF AND TELLS DEFENDANT 40 D. CRAWFORD CONTROL BOOTH OFFICER TO PUSH HIS ALARM WHEN RESPONDING STAFF ARRIVED LO D. BEATTY STATE & PLAINTIFF TRIED TO HANG HIMSELF POINTING AT THE CEILING LIBAT BUT THERES NOTHING HANGING FROM THE CEILING LIGHT TO SUPPORT DIBEATTY FALSE ALLEGATIONS . PLAINTIFF REPEATEDLY ASKED DEFENDANT SOT D. WILLIAMS TO INVESTIGATE THE INCIDENT BELAUSE MY TWO ISSUED STATE SHEETS WAS NOT TORN. THAT PLAINT IFF WAS DELIBERATELY MALICIOUSLY AND SADISTICALLY ASSAULTED BY 40 D. BEATTY Who USED UNNECESSARY EXCESSIVE FORCE VIOLATING CCR. TITLE 15. SECTION 3268 (2)(2). I WAS ORDERED TO PLACE MY HANDS BEHIND MY BACK AND CUFF UP PLAINTIFF COMPLIED. I WAS THEN TRANSPORTED TO THE INSTITUTIONS INFIRMARY BY AMBULATORY AND TREATED FOR MY INJURIES AND PLACED ON SUICIDE WATCH FOR APPROXIMATELY EIGHT HOURS I WAS EXAMINED BY PSYCHIATRIST ON JUNE 29/2007 IT WAS DETERMINED PLAINTIFF WAS NOT SUICIDAL SEE EXHIBIT 'A" PSYCHIATRIST REPORT. PLAINTIFF RECEIVED X-RAYS PER DOCTOR ORDERS AFTER HE SEEN THE DAMAGE TO PLAINTIFF HANDS BEFORE PLAINTIFF WAS RETURNED BACK TO his housing UNIT. OFFICERS MOVED

PLAINTIFF FROM D-2 B-SELTION TO D-2 C-SECTION TO AVOID PLAINTIFF

FROM GETTING STATEMENTS FROM WITNESSES. 6/0 D. BEATTY SUPERVISOR

SET D. WILLIAMS did NOT CONDUCT AN ON CAMERA INTERVIEW WITH

PLAINTIFF PER CDC ADMINISTRATIVE BULLETIN ("AB") 05-03 SEE

EXHIBIT "B" AB 05-03 DESPITE PLAINTIFF INFORMING DEFENDANT

D. WILLIAMS THAT PLAINTIFF WAS DELIBERATELY ASSAULTED.

16. ON 6/27/07 ONE DAY PRIOR TO THIS INCIDENT PLAINTIFF FILED A COMPLAINT AGAINST D-2 SELOND WATCH SOT L.LOCKE NOT A PARTY TO THIS COMPLAINT BUT TO SHOW PLAINTIFF WAS BEING DELIBERATELY DEPRIVED ASCESS TO HIS LEGAL MATERIALS AND THE COURTS. AND SHOW THE CONDUCT OF D-2 OFFICERS SEE EXHIBIT "C".

17. ON 7/3/2007 PLAINTIFF WAS INTERVIEWED BY PSYCK TECK PAULI NOT A PARTY TO THIS COMPLAINT. DURING THE INTERVIEW SHE WAS TAKING NOTES. PLAINTIFF INFORMED HER HE WAS ASSAULTED BY D. BEATTY AND WAS HAVING PROBLEMS TRYING TO SPEAK WITH SELOND WATCH D-2 FACILITY DEFENDANT LT R. BOCCELLA TO GET MY INTURIES DISCUMENTED ON CAMERA. HOWEVER, PAULI REMEMBERS THE INTERVIEW BUT THE RECORDS WAS LOST WHEN PLAINTIFF TRIED TO RETRIEVE THEM PLAINTIFF FILED SEVERAL COMPLAINTS DIRECTLY TO PAULI SUPERVISOR TO NO AYAIL. THE IMMATE APPEALS COORDINATOR REFUSED TO PROCESS PLAINTIFF'S GRIEVANCE REGARDING THIS MATTER. SEE EXHIBIT 'D'

18. ON 7/9/2007 PLAINTIFF WAS INTERVIEWED BY PSYCHIATRIST DR.

TORREZ NOT A PARTY TO THIS COMPLAINT, DURING THIS INTERVIEW

PLAINTIFF INFORMED DR. TORREZ THAT HE WAS ASSAULTED BY 60 D.

BEATTY AND THAT D-2 OFFICERS WAS THROWING AWAY PLAINTIFF 602

COMPLAINT AND REQUEST FOR INTERVIEW FORMS I SPEAK WITH D-2

HOUSING UNIT SECOND WATCH IT R. BOCCELLA. PLAINTIFF WAS INFORMED

BY DR. TORREZ TO RE-WRITE MY GRIEVANCE FOR EXCESSIVE FORCE

AGAINST % D. BEATTY AND GIVE THE COMPLAINT TO HER AND SHE WILL TURN IT IN ON PLAINTIFF BEHALF. OR GIVE IT TO HER SUPERVISOR TO TURN IN FOR ME, PLAINTIFF ALSO REQUESTED SHE NOTIFY LT R. BOCCELLA I PLAINTIFF WAS IN JURED AND WAS TRYING TO GET AN ON CAMERA INTERVIEW OF MY INJURIES DOCUMENTED WHILE MY HANDS WAS STILL BLACK AND BLUE. SEE EXHIBIT "E" DR. TORREZ NOTES TAKEN ON 7/9/2007.

19. ON 7/10/2007 PLAINTIFF HANDED DR. TORREZ HIS GRIEVANCE AGAINST

20. ON 7/10/2007 PLAINTIFF RECEIVED A ADMINISTRATIVE SEGREGATION

UNIT PLACEMENT NOTICE CDC 114-D AUTHORIZED BY DEFENDANT

LT R. BOCCELLA APPROXIMATELY EIGHT HOURS AFTER PLAINTIFF TURNED IN his GRIEVANCE AGAINST "OD D. BEATTY. IT SHOULD BE NOTED 114-D

LOCK UP ORDERS IS ISSUED WITHIN 72 HOURS OF THE DISCOVERY OF A

INCIDENT. PLAINTIFF DIDN'T RECEIVE HIS 114-D LOCK UP ORDER UNTIL

LIZ DAYS AFTER HE WAS ASSAULTED. SEE ATTACKED 114-D EXHIBIT I" G")

** ACCUSING PLAINTIFF OF "ATTEMPT BATTERY ON A PEACE OFFICER WITH

USE OF FORCE O.C. PEPPER SPRAY. IN RETALIATION FOR FILING A GRIEVANCE.

Al. ON 7/16/2007 PLAINTIFF RECEIVED A CDC RULE VIOLATION REPORT

("RYR") FOR MATTEMPTED BATTERY ON A PEACE OFFICER WIUSE OF O.C."

BY D. BEATTY 19 DAYS AFTER PLAINTIFF FILED HIS GRIEVANCE IN AN TO

COVER UP THE STAFF MISCONDUCT COMPLAINT FILED BY PLAINTIFF, IT

Should be noted Plaintiff was illegally found Guilty of The RYR

BUT COULD NOT BE ASSESSED ANY DAYS FORFEITURE OF CREDITS DUE TO

LOSS OF TIME CONSTRAINTS BE CAUSE THE RYR WAS ISSUED 15 DAYS AFTER

DISCOVERY OF THE INCIDENT, PLAINTIFF PLACED ALL DEFENDANTS ON ACTUAL

NOTICE THE CHARGES AGAINST HIM WAS FALSE AND THEY WILL BE COMMITTING

A FELONY IF THEY CONSPIRE WITH 90 D. BEATTY AND COVER UP HIS MISCONDUCT

WHICH ALL DEFENDANTS DID DESPITE BEING PLACED ON NOTICE. SEE EXHIBIT

"H" RYR, AND CRIME LINCIDENT REPORT CDCR 837-A

۲.

- 23. DN 10/8/2007 PLAINTIFF FILED A COMPLAINT TO MR. VINCENT
 SCHUMACKER OF THE OFFICE OF INTERNAL AFFAIRS. COMPLAINING

 DEFENDANT C. WARFIELD VIOLATED PLAINTIFF DUE PROCESS RIGHTS BY

 NOT ALLOWING PLAINTIFF TO QUESTION STAFF WITNESSES. SEE EXHIBIT "5"
- 24. ON 11/28/2007 PLAINTIFF RVR WAS DECERED REISSUED REHEARD BY

 DEFENDANT L.TREX.LER CLIMINING PLAINTIFF MENTAL HEALTH ASSESSMENT

 WAS INCOMPLETE BY CLIMICIAN. WEE EXHIBIT "K" INITIAL MENTAL

 health Climician dated 7/24/2007 and second report dated 12/17/2007,
- 25. DN 9/6/2007 PLAINTIFF WAS ABLE TO RETRIEVE DECLARATIONS
 FROM TWO OF HIS INMATE WITNESSES AND NAME OF A THIRD WITNESS
 INMATE "MARIO MONTEMAYOR E-52282 housed in D-2-214 AT
 THE TIME OF THE INCIDENT. SEE EXHIBIT "L" DECLARATIONS.

Abon 12/27/07 PLAINTIFF RVR WAS REISSUED AND HEARD ON 2/12/2008

PLAINTIFF WAS ONLE AGAIN DENIED THE RIGHT TO QUESTION STAFF

WITNESSES. HOWEVER, PLAINTIFF WAS ALLOWED TO QUESTION DEFENDANT

D. BEATTY. PLAINTIFF WAS DENIED THE RIGHT TO HAVE THE EVIDENCE

PRESENT AT THE RVR HEARING. IT Should be NOTED PLAINTIFF DID NOT

RECEIVE THE PHOTOCOPY OF THE NOOSE GATHERED AS EVIDENCE AND PLACED

IN LOCKER *9. UNTIL 1/8/2008 WPON EXAMINING THE PHOTOCOPY AND

MEASUREMENTS OF THE TORN SHEET ON THE RULER IN THE PHOTOCOPY IT

WAS CLEAR TO PLAINTIFF THE TORN SHEET MIGHT NOT FIT OVER PLAINTIFF

HEAD TO PROVE IT WAS PLANTED BY D. BEATTY "SEE EXHIBIT "M" THE

THE RVR LOG NO! SOT-11-0022 AND PHOTOCOPY OF THE NOOSE

FIRST CLAIM FOR RELIEF

VIOLATION OF PLAINTIFF'S FIRST AMENDMENTRIGHTS
TO BE FREE FROM RETALIATION WITH A CHILLING EFFECT,
AND DOES NOT ADVANCE LEGITIMATE PENOLOGICAL GOALS

- 27. PLAINTIFF HEREBY INCORPORATES BY REFERENCE ALL OF THE PARAGRAPHS
 OF THE GENERAL ALLEGATIONS AND MAKES THEM A PART OF THIS FIRST CAUSE
 OF ACTION AS THOUGH FULLY SET FORTH HEREAT.
- AB. DEFENDANTS, AND EACH OF THEM DEPRIVED PLAINTIFF OF HIS FIRST AMENDMENT RIGHTS TO BE FREE FROM RETALIATION FOR EXERCISING HIS RIGHTS TO FILE GRIEVANCES. DEFENDANTS, KNEW OR SHOULD HAVE KNOWN THEIR CONDUCT WOULD CAUSE A CHILLING EFFECT ON PLAINTIFF. THEIR ACTIONS DOES NOT ADVANCE LEGITIMATE PENOLOGICAL GOALS, SUCH AS PRESERVING INSTITUTIONAL ORDER AND DISCIPLINE.
- 29. DEFENDANTS, AND EACH OF THEIR ACTIONS, AS HEREIN ALLEGED, WERE DONE MALICIONSLY, SADISTICALLY, AND INTENTIONALLY, AND DONE FOR THE SOLE PURPOSE TO RETALIATE AGAINST PLAINTIFF FOR FILING GRIEVANCES. DEFENDANTS, AND EACH OF THEIR CONDUCT IN ASSAULTING PLAINTIFF FALSIFYING REPORTS IN THE COURSE OF THEIR DUTY, CAUSING PLAINTIFF TO BE HELD IN ADMINISTRATIVE SEGREGATION (AD-SEG). CONSTITUTES CONDUCT WHICH WAS HARMFUL WITH A CHILLING EFFECT, AND DOES NOT ADVANCE LEGITIMATE PENOLOGICAL GOALS SUCH AS PERSERVING INSTITUTIONAL ORDER AND DISCIPLINE.
 - 30. AS A PROXIMATE RESULT OF DEFENDANTS, AND EACH OF THEIR, CONSPIRACY AND
 THE FACTS HEREIN ALLEGED, PLAINTIFF HAS GENUINE ISSUES AND MATERIAL FACTS
 DO EXIST AS TO WHETHER STATE PRISON OFFICIALS ABUSED THEIR AUTHORITY AND
 PRISON PROCEDURES AS A COYER OR A RUSE TO SILENCE AND PUNISH PLAINTIFF
 BECAUSE HE FILED GRIEVANCES PRECLUDING SUMMARY JUDGMENT FOR THE PRISON
 OFFICIALS ON PLAINTIFF'S FIRST AMENDMEND RETALIATION CLAIM AGAINST THE
 DEFENDANTS UNDER 42 U.S.C. \$ 1983.

32. IN doing The ACTS AS HEREIN ABOVE ALLEGED DEFENDANTS AND EACH OF THEM KNEW OR Should have KNOWN Their ACTIONS WOULD AND DID OFFEND CONTEMPORARY STANDARDS OF DECENCY.

SECOND CLAIM FOR RELIEF

VIOLATION OF PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM THE USE OF EXCESSIVE FORCE.

- 33 . PLAINTIFF HEREBY INCORPORATES BY REFERENCE ALL OF THE PARAGRAPHS OF THE GENERAL ALLE GATIONS AND PARAGRAPHS 27 THROUGH 32 OF THE FIRST CAUSE OF ACTION OF THIS COMPLAINT AND MAKES THEM A PART OF THIS SECOND CAUSE OF ACTION AS THOUGH FULLY SET FORTH HEREAT.
- 34. defendant, D. BEATTY, YIOLATED PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE PROTECTED FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF EXCESSIVE FORCE. BY his UNNECESSARY AND WANTON INFICTION OF PAIN. INCLUDING PHYSICAL IN SURY, AND PERMANENT DAMAGE TO PLAINTIFF HANDS, AND PERMANENT PSYCHOLOGICAL AND EMOTIONAL DISTRESS AS HEREIN ALLEGED.
- 35. PLAINTIFF IS INFORMED AND BELIEVES AND BASED THEREON ALLEGES THAT ON JUNE 18/2007 DEFENDANT D. BEATTY MALICIOUSLY AND SADISTICALLY ASSAULTED PLAINTIFF AGAINST HIS WILL WITHOUT HIS CONSENT BY KICKING THE FOOD PORT DOOR SMASHING PLAINTIFF'S HANDS AND CAUSING THEM TO BLEED, AND SPRAYING PLAINTIFF WITH A CHEMICAL AGENT PEPPER SPRAY AND CAUSING PERMANENT DAMAGE TO PLAINTIFF'S hANDS.
- 36 . IN doing The ACTS AS hEREIN ABOVE ALLEGED DEFENDANT D. BEATTY INTENDED TO CAUSE OR PLACE PLAINTIFF IN APPREHENSION OF HARM FUL AND OFFENSIVE CONTACT WITH PLAINTIFF PERSON. FURTHER DEFENDANT AT ALL TIMES ACTED WITH THE INTENT TO MAKE CONTACT WITH PLAINTIFF PERSON.

DEFENDENT D. BEATTY KNEW OR Should have KNOWN his ACTIONS WOULD AND did OFFEND CONTEMPORARY STANDARDS OF DECENCY.

37. DEFENDANT, D. BERTTY SUBSUCTED PLAINTIFF TO THIS PHYSICAL, EMOTIONAL, AND MENTAL ABUSE UNDER CIRCUMSTANCES WHICH DID NOT REQUIRE

THE USE OF ANY PHYSICAL FORCE WHATSOEVER.

38. DEFENDANT, AS HEREIN ALLEGED, ACTIONS WERE DESPICABLE, MALICIOUSLY,
AND SADISTICALLY, AND WAS CARRIED OUT WANTON AND RECKLESS

DISREGARDS FOR PLAINTIFF'S FEDERALLY PROTECTED RIGHTS.

39. AS A PROLIMATE RESULT OF DEFENDANTS, AND EACH OF THEIR, CONSPIRALY
AND THE FACTS HEREIN ALLEGED, PLAINTIFF WAS INTURED IN HIS HEALTH, STRENGHT
AND ACTIVITY, SUSTAINING INTURY TO HIS BODY AND MIND, SHOCK AND INTURY
TO HIS NERVOUS SYSTEM AND PERSON, ALLOF WHICH INTURIES HAVE CAUSED
PLAINTIFF TO SUFFER EXTREME AND SEVERE PHYSICAL AND MENTAL PAIN AND
ANGUISH. THESE INTURIES INCLUDE, BUT NOT LITHITED TO, PERMANENT DAMAGE
TO PLAINTIFF HANDS, MEMORY LOSS, AND POST TRAUMATIC STREE DISORDER
WHICH HAVE RESULTED IN PERMANENT PSYCHOLOGICAL DISABILITY TO PLAINTIFF,
ALL TO HIS GENERAL DAMAGES IN A SUM ACCORDING TO PROOF.

40. defendants, and each of their conduct, as herein above alleged, was despicable and intented by defendants, and each of them, to cause intury to plaintiff, and was done by defendants, and each of them, with a willful and conscious disregard of plaintiff's rights and subtected plaintiff to cruel and untust hardship in conscious disregards of plaintiff's federal rights and was comprised of, in part, intentional, misrepresentations, falsehood and/or concealment of material facts by defendants calculated to deprive plaintiff of property, leval and privacy rights, or to otherwise cause intury, such as to constitute malice, fraud, and/or oppression entitling plaintiff to punitive damages in an amount approprate to punish and set an example of defendants.

THIRD CLAIM FOR RELIEF

VIOLATION OF PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF DEPRIVATION OF PERSONAL SAFETY.

41. PLAINTIFF HEREBY INCORPORATES BY REFERENCE ALL OF THE PARAGRAPHS OF THE GENERAL ALLEGATIONS PARAGRAPHS 27 THROUGH 32 OF THE FIRST CAUSE OF ACTION OF THIS COMPLAINT AND PARAGRAPHS 33 THROUGH 40 OF THE SECOND CAUSE OF ACTION OF THIS COMPLAINT AND MAKES THEM A PART OF THIS THIRD CAUSE OF ACTION AS THOUGH FULLY SET FORTH HEREAT.

42. IN doing the Acts herein above allebed, defendants acted with deliberate indifference to plaintiff's personal safety, and subsected him to unnecessary and wanton infliction of pain including physical indury and permanent damage to plaintiff hands and permanent psychological, and emotional distress, in violation of his rights under the eighth amendment. Specifically, defendants, were deliberately indifferent to plaintiff's rights to have personal safety when they intentionally, knowingly, maliciously, and sadistically inflicted physical abuse and humiliation on plaintiff by kicking the food/port door smashing plaintiff hands causing them to bleed and spraying plaintiff with a chemical agent (pepper spray) and depriving plaintiff of adequate medical treatment. Falsifying reports in the course of their duty causing plaintiff to be held in ad-se6 illegally. Defendants knew their actions would and did offend contemporary standards of decency.

43. defendants, and each of them, subsected plaintiff to this physical, Emotional, and mental abuse, under circumstances which did NOT Advance lebilimate penological Goals Such as preserving institutional order and discipline.

44 · DEFENDANTS AND EACH OF THEM AS HEREIN ALLEGED ACTIONS WERE DESPICABLE MALICIOUSLY AND SADISTICALLY AND CARRIED OUT WITH A

WANTON AND RECKLESS DISREGARDS FOR PLAINTIFF FEDERALLY PROTECTED
RIGHTS.

45. AS A PROXIMATE RESULT OF DE FENDANTS, AND EACH OF THEIR, CONSPIRACY
AND THE FACTS HEREIN ALLEGED, PLAINTIFF WAS INSURED IN his health,
STRENGTH AND ACTIVITY SUSTAINING INSURY TO HIS BODY AND MIND, SHOCK AND
INSURY TO HIS NERVOUS SYSTEM AND PERSON ALL OF WHICH INSURIES HAVE
LAUSED PLAINTIFF TO SUFFER EXTREME AND SEVERE PHYSICAL AND MENTAL
PAIN AND ANGUISH. THESE INSURIES INCLUDE BUT NOT LIMITED TO,
PERMANENT DAMAGE TO PLAINTIFF HANDS, MEMORY LOSS, AND POST TRAUMATIC
STRESS DISORDER WHICH HAVE RESULTED IN PERMANENT PSYCHOLOGICAL
DISABILITY TO PLAINTIFF ALL TO HIS GENERAL DAMAGES IN A SUM
ACCORDING TO PROOF.

46. DEFENDANTS, AND EACH OF THE TR CONDUCT, AS HERE IN ABOVE ALLEGED, WAS DESPICABLE AND INTENTED BY DEFENDANTS, AND EACH OF THEM, TO CAUSE IN TURY TO PLAINTIFF AND WAS DONE BY DEFENDANTS, AND EACH OF THEM, WITH A WILLFUL AND CONSCIOUS DISREGARDS OF PLAINTIFF RIGHTS AND SUBTECTED PLAINTIFF TO CRUEL AND UNTUST HARDSHIP IN CONSCIOUS DISREGARDS OF PLAINTIFF FEDERAL RIGHTS AND WAS COMPRISED OF, IN PART, INTENTIONAL, MISREPRESENTATIONS, FALSEHOOD AND FOR CONCEALMENT OF MATERIAL FACTS BY DEFENDANTS CALCULATED TO DEPRIVE PLAINTIFF OF PROPERTY, LEGAL AND PRIVACY RIGHTS OR TO OTHERWISE CAUSE INTURY, SUCH AS TO CONSTITUTE MALICE, FRAUD, AND FOR OPPRESSION ENTITLING PLAINTIFF TO PUNITIVE DAMAGES IN AN AMOUNT APPROPRATE TO PUNISH AND SET AN EXAMPLE OF DEFENDANTS.

47. AT ALL TIMES MENTIONED IN THIS COMPLAINT, EACH INDIVIDUAL DEFENDANT WAS ACTING UNDER COLOR OF STATE LAW.

48. AT ALL TIMES MENTIONED IN THIS COMPLAINT, EACH INDIVIDUAL DEFENDANT WAS
ACTING IN THEIR OFFICIAL CAPACITY AND IN THE SCOPE AND COURSE OF THEIR
EMPLOYMENT.

49. ALL OF THE DEFENDANTS, AND EACH OF THEM, ARE ALSO SUED IN THEIR INDIVIDUAL CAPACITIES FOR THE CLAIMS ALLEGED IN THIS COMPLAINT.

SO. AS A FURTHER DIRECT AND APPROXIMATE RESULT OF ALL OF THE DEFENDANTS ACTIONS HEREIN ALLEGED, PLAINTIFF SUFFERED, AND CONTINUES TO SUFFER, SEVERE EMOTIONAL AND PSYCHOLOGICAL DISTRESS PLAINTIFF IS ENTITLED TO AN AWARD OF COMPENSATORY AND PUNITIVE DAMAGES FOR INTURIES SUFFERED

51. PLAINTIFF IS ENTITLED TO INJUNCTIVE RELIEF INCLUDING, BUT NOT LIMITED TO AN ORDER REQUIRING HIS TRANSFER AWAY FROM SYSP, WHERE HE WILL NOT BE SUBJECTED TO RETALIATION INSTIGATED AND JOR RATIFIED BY ANY OF THE DEFENDANTS. THERE IS NO ADEQUATE REMEDY AT LAW TO PROTECT PLAINTIFF FROM SAID RETALIATION AND WITHOUT THE EQUITABLE RELIEF SOUGHT he is SUSCEPTIBLE TO GREAT AND IRREPARABLE INJURY. THE BALANCE OF HARDSHIP TIPS MARKEDLY TOWARD PLAINTIFF IN THAT THERE WOULD BE LITTLE OR NO PREJUDICE OR HARM TO THE DEFENDANTS Should PLAINTIFF BE TRANSFERRED AWAY FROM SYSP BUT GREAT HARM TO PLAINTIFF Should he BE REQUIRED TO STAY AT This INSTITUTION.

PRAYER FOR RELIEF

- 1. INSUNCTIVE RELIEF,
- 2. COMPENSATORY CAMABES ALCORDING TO PROOF, \$ 150.000 PER DEFENDANT
- 3. PUNITIVE DAMAGES ACCORDING TO PROOF, A 20.000 PER DEFENDANT
- 4. AddITIONAL ARMAGES # 150.00 00 A day FOR EVERY day PLAINTIFF did in Ad-SEG ILLEGALLY FOR THE FALSE RVR IN RETALIATION FOR PLAINTIFF FILING GRIEVANCE.
- 5. REASONABLE ATTORNEY'S FEE'S PURSUANT TO 42 U.S.C. \$ 1988,
- 6. COSTS OF SUIT AND
- 7. SUCH FURTHER RELIEF AS THE COURT DEEMS JUST AND PROPER.

DEMAND FOR JURY TRIAL

PLAINTIFF RUSSELL MARTIN RESPECTFULLY HEREBY DEMANDS A TRIAL BY JURY

DATED: 8/19/2008

RESPECTFULLY SUBMITTED

RANGEL MANTS

EACH EXHIBIT A-THROUGH M IS MARKED IN THE UPPER RIGHT HAND CORNER

EXHIBIT A I THRO 6

EXHIBIT:



NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

		711#	Physician's Order & Medication (Orders must be dated, timed & signed)
Order Date	Time	Problem #	
. !			Triage & Treatment Area (TTA) Orders:
6/28/07			1. Refer to Mental Health Crisis Bed for Admission
, 10)			Evaluation Kirly Time/Date HCPU called: 4/28/07 @ 2315
			2. Diagnosis:
			Adjustment Disorder
			3. Suicide Watch or Suicide Precaution (circle one)
÷			4. Safety Smock: Yes No
·			Safety Blanket: Yes / No
• .		;	Safety Mattress: Yes / No
			(Justify denial of any of the above in your MH3 note)
			5. Shorts: Yes / No Socks: Yes / No T-Shirt: Yes / No
·	1		Oth ar:
			6. Medications (with #days, dose, route, frequency):
			NO Psych meds
			,
			7. LABS:
			8. Drug/Blood levels:
			9. Diet: // / / / / / / / / / / / / / / / / /
			10. Vital Signs: JON ADMISSION
			11. Activities: AD (1) D2/1/2
ALLERGIES	V >	2	INSTITUTION - POOM/WING
^	UKD.	r)	57/SP CTC HC 1/5
			CDC NUMBER, NAME (Last, First, MI)

Confidential Client information See W & I code, Sections 4514 and 5328

· MARTIN, RUSSELL E 67769 3/6/65

State of Calli	formia, Department of Corrections Institution:	Prior Page Number :
CHRONOLO	OGICAL INTERDISCIPLINARY PROGRESS NOTES:	All Staff, Clinicians, Treatment Teams.
Date/Time:	Yus	Use Name & Title Stamp.
6/27/07	HPI: 42 ylo At Am male, hed Anxiety /V	istard in the past no Ymeds or
750am	contacts recently. It was seen by Cu	stody & sanctury in his
	cell that suggested he might be to	
	I/M indicates no suicidality; states	
	get to see Watch Commander W/c he h	as no property and it is
	obs tricting his court process. He states	1 that custing cather
	than notify watch Commander when	he / Inmate had obstructed
	his cell and not responded during a	rellcant. He states They
	tried to thru sanething in his a	ell, and to caver That
	accessed him of SI. It denies si	
	PYHz: had anxiety ghad cours.	6 SA - & Whose talications
	ofweds & Vistant autifor a small	seriod of time.
	PMUX: HTN, S/p GSW to his st	mach Int warms
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	SecHa: From LA. 4 Sist / 3 brothers. 8th ga	
	Has welled in physical construction. SNY	•
	MJE- Ato . MO. Braided hair Good cye Cartact.	
	Slightly insistent fentitled on needs being me	1. Mood- frotently, but stable,
	good "hopeful" TP-linear/topical T	1- OSHI BANH & Was OPI OTBOHOM
	15- Pair	
	Dxes: Axis I: - Onoko; hxd Anxiety	Axis II Cluster B traits III-HTW
<i>i</i> .	II: legal I GAF 65-75	
	Lawd- 1	Page #
	& Solu Schererman	
	V Johow May	

MENTAL HEALTH	LEVEL OF	Last Name:	First Name:	MI:
INTERDISCIPLINARY PROGRESS NOTES MH 3 [3/21/96]	CARE	Martin	Russell	
Confidential Client/Patient Information See W & I Code, Section 5328	Inpatient Outpatient	cdc# <u></u>	269 DOB3	16,1965

State of Call	norma, Department of Corrections Institution: Prior Page Number: _a
CHRONOL	OGICAL INTERDISCIPLINARY PROGRESS NOTES: All Staff, Clinicians, Treatment Teams.
Date/Time:	Use Name & Title Stamp.
6/29/07	Alp: 42 ylo male Bright engaged pleasant, interactive
Follow	affect. Adamanty denies SI; certainly no objective
	signs of depression (& withdrawa, & flat affect, etc)
	and denies all others (skeep fair, adepressed mand,
	Eating well, carcustration good) Eye contact-good.
	At This time, given that he has no objective a Subjective
	Signs I depressing that he devies SZ, That he has
	nowarened social stressus, I do not feel this pt.
	is at elevated sink of svividle and can dearly be
	Safely managed back to his cell level. all with
	5 day F/V will be initiated. Pt contracts IN safety
	and will neter or while stall it any our ordates.
	Sehn Scherer
	a scherer
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	Page #
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MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES	LEVEL OF CARE	Last Name:	First Name: Russell	MI:
MH 3 [3/21/96]				
Confidential Client/Patient Information See W & I Code, Section 5328	Inpatient	cdc# <u>E-6</u>	1)69 DOB 3/	611965
	Outpatient		1 200 21	

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☐ DECEASED

☐ UNSTABLE

TIME

SUPERVISOR REVIEW

CDC 7403 (04/03) EMERGENCY CARE FLOW SHEET

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DATE	TIME	NOTES	
68/17	2350	Innate Diojecht to ER in Emergency Response	
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		and ignored attempts by tos to stop the bellow	204
	- ,, ,	as it was seen as SI, I'M was OC Sprayed.	
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EXHIBIT B I THRO 4

EXHIBIT:





Department of Corrections and Rehabilitation

ADMINISTRATIVE BULLETIN

Subject: PROCESSING OF ADULT

INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH ALLEGE STAFF MISCONDUCT

Number:	
05-03	
Date:	
November 22, 2005	

The purpose of this Administrative Bulletin (AB) is to announce changes in how Adult Inmate/Parolee Appeals, California Department of Corrections (CDC) Form 602, specifically those identified as Staff Complaints, will be handled. All inmate complaints which allege any misconduct by a staff member will continue to be logged by the Appeals Coordinator (AC) as a Staff Complaint, Category 7. Procedures for processing staff complaint appeals shall be as follows:

- 1. The AC will ensure that all appeals alleging staff misconduct are logged as Staff Complaints.
- 2. If an appeal alleges staff misconduct involving excessive or inappropriate use of force, the allegation will be addressed pursuant to the procedures prescribed in the Use of Force Policy (including an immediate videotaped interview, if one has not already been completed).
- 3. When an appeal is received which alleges staff misconduct and also includes issues such as property complaints, disciplinary actions, etc., the AC will inform the inmate/parolee in writing that the appeal will be addressed as a Staff Complaint and that the other appeal issues must be appealed separately. Appeals alleging staff misconduct will be addressed separately and will not be combined with other appeal issues.
- 4. All staff complaint appeals shall be presented by the AC to the Hiring Authority or designee, no less than weekly. The Hiring Authority designee shall not be below the level of Chief Deputy Warden, Deputy Regional Administrator (Parole), or comparable level.
- 5. The Hiring Authority will review the complaint and make the appropriate determination as outlined in item Number 7 of this AB. The Hiring Authority will then make the appropriate notation on the Determination of Staff Complaint form (Attachment A). When an inmate/parolee files a complaint that is determined by the Hiring Authority to be a staff complaint, the employee shall be notified of the filing as soon as possible, pursuant to Department Operations Manual (DOM), Section 54100.25.2 and any applicable Bargaining Unit agreements. A Chronological Tracking Worksheet (Attachment B) will be prepared and attached as a cover to each Determination of Staff Complaint form.
- 6. The California Code of Regulations (CCR), Title 15, Section 3084.1 (e) states in part ".....An appeal alleging misconduct by a departmental peace officer as defined in Section 3291(b) shall be accompanied by a Rights and Responsibility Statement as shown in Section 3391(d). Failure to submit this form will be cause for rejecting the appeal in accordance with Section 3084.3(c)(5) ".....If an appeal alleging misconduct by a departmental Peace Officer is received without the Rights and Responsibilities Statement, it shall be processed as indicated above and the Rights and

Department of Corrections and Rehabilitation

CDC FORM 602, WHICH ALLEGE STAFF MISCONDUCT



Number: 05-03 Date:

November 22, 2005

- 2 -

Responsibilities Statement shall be obtained from the inmate/parolee at the time of his/her appeal interview. If the inmate/parolee refuses to sign the Rights and Responsibilities Statement, the appeal shall be canceled pursuant to CCR Section 3084.4, Lack of Cooperation. A cancellation of an appeal for this reason shall not preclude the initiation or continuation of any other inquiry or investigation of the matter. If cancelled, the AC shall forward a copy of the appeal to the Hiring Authority, or designee, for determination and possible referral for further inquiry or to request investigation by the Office of Internal Affairs.

- 7. The Hiring Authority, or designee, shall review all staff complaint allegations and determine if:
 - The allegation warrants a request for Internal Affairs investigation. When an allegation warrants a request for an Internal Affairs investigation, the AC shall bypass the First Level of Review, respond at the Second Level of Review, and note that the appeal was granted or partially granted consistent with the requested action of the appellant (generic language sample provided below). The AC will then refer the case for an Internal Affairs investigation as instructed by the Hiring Authority. When a determination is made by the Hiring Authority to refer an inmate staff complaint for an Internal Affairs investigation, an Internal Affairs Investigation Request (CDC Form 989) will be completed and forwarded to the Office of Internal Affairs, Central Intake Unit, with all accompanying information and documentation related to the allegation. The following is suggested appeal response language:

"Your allegation(s) of staff misconduct has been referred for investigation. Pursuant to state law, the results of any investigation of staff misconduct shall not be released to the public, inmates/parolees, or other staff. You will be notified only of the conclusion of the investigation."

- The allegation does not warrant a request for Internal Affairs investigation. The AC shall be instructed to assign the appeal for a First Level Response. Appeals alleging staff misconduct that do not warrant an Internal Affairs investigation as determined by the Hiring Authority or designee, will be handled in the following manner:
 - If the Appeal Inquiry is to be completed without an Internal Affairs referral, a Confidential Supplement to Appeal, Appeal Inquiry (Attachment C), will be completed by the reviewer in addition to the First Level Review Response to the inmate/parolee. This

Department of Corrections and Rehabilitation ADMINISTRATIVE BULLETIN



Subject:

PROCESSING OF ADULT INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH ALLEGE STAFF MISCONDUCT

Number:		
	05-03	
Date:		

November 22, 2005

- 3 -

confidential report is in a standardized format that summarizes the review and includes a determination of the findings concerning the allegation.

The confidential report will be maintained with the First Level Appeal Response by the AC pursuant to DOM, Section 54100.25.3. A standardized format has been developed for documenting staff complaint appeals, and will be used for all confidential supplements. Inmates/Parolees will not be provided a copy of this confidential supplement.

- The assigned reviewer will read the allegation and interview the appellant. After interviewing the appellant, any other pertinent staff or inmate/parolee witnesses will be interviewed.
- After completing the interviews with all pertinent witnesses, and if necessary to reach a determination, the subject(s) of the staff complaint may be interviewed by a person trained to conduct administrative interviews. The subject of the alleged complaint will be served with a Notice of Interview (see sample Attachment D) at least 24 hours prior to the interview. The Notice of Interview is to be signed by the subject, and if the subject chooses to waive the 24-hour requirement, he/she must indicate this wish on the notice. If waived, the subject may be interviewed immediately.

If at any time during the course of the appeal inquiry the reviewer discovers information indicating that serious misconduct (conduct that would likely lead to adverse personnel action) may have taken place, the reviewer will refrain from further interviewing of any staff or inmates/parolees regarding the matter. The reviewer will immediately bring this information to the Hiring Authority for further review. The Hiring Authority will then determine if the reviewer will continue the inquiry or if the matter will be referred for consideration of an Internal Affairs investigation.

8. The Hiring Authority shall ensure the total number of staff complaints received, the number referred for Internal Affairs investigation, and the number that were not referred for Internal Affairs investigation are included in the quarterly report required by DOM, Section 54100.27.

Department of Corrections and Rehabilitation

ADMINISTRATIVE BULLETIN

Subject: PROCESSING OF ADULT

INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH ALLEGE STAFF MISCONDUCT

Number:	
05-03	
Date:	
November 22, 2005	5

- 4 -

Please inform all persons concerned that this bulletin supersedes AB 98/10. This bulletin will serve as interim policy until incorporated into DOM, Section 54100. Please direct any inquires regarding the Staff Complaint process to Chief, Inmate Appeals Branch, at (916) 358-2418. Please direct any inquiries regarding Internal Affairs investigations to Chief, Office of Investigative Services, at (916) 323-5769.

Original signed by:

JOE MCGRATH Chief Deputy Secretary California Department of Corrections and Rehabilitation

EXHIBIT C I THRO B

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION INMATE APPEALS BRANCH P. O. BOX 942883 SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

MAY 0 2 2008 Date:

In re: Russell Martin, E67269 Salinas Valley State Prison P.O. Box 1020 Soledad, CA 93960-1020

> IAB Case No.: 0716762 Local Log No.: SVSP-07-03489

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner L. Warren, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that on June 26, 2007, he asked Correctional Sergeant (Sgt.) Locke for his legal property because he has two active legal cases. According to the appellant, Sgt. Locke stated, "I don't give a (expletive deleted) who you had a phone call scheduled with, you are not getting any property." He states that Sgt. Locke knowingly abused his authority and deprived the appellant of his access to the courts. He is requesting that this complaint be placed in Sgt. Locke's personnel file for five years; that he be counseled about his job performance and/or removed from his position in the Administrative Segregation Unit; that the appellant's property be issued to him immediately; and that he suffer no reprisals as a result of this appeal.
- II SECOND LEVEL'S DECISION: The reviewer found that this appeal was processed as staff complaint and appropriate supervisory staff conducted a confidential appeal inquiry into this matter. The inquiry determined that all allowable property including legal work was issued to the appellant on July 15, 2007 and the appellant withdrew this appeal at that time. However, at the second level, the appellant stated that he was not withdrawing the staff complaint portion of the appeal, therefore the submitted material was reviewed and the involved parties were interviewed. The reviewer determined that the appellant failed to provide any evidence of staff misconduct.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Director's Level of Review (DLR) has reviewed the appellant's issues and reaffirms the institution's examination and conclusions as addressed within the Second Level of Review. Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff, and a confidential appeals inquiry has been completed. On April 15, 2008, the written report of appeal inquiry was obtained and examined at the DLR. The inquiry was found to be consistent with Administrative Bulletin (AB) 05/03 and CDCR policy. The finding of the inquiry determined that staff did not violate departmental policy. Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff, or the placement of documentation in a staff member's personnel file, or that the staff members be reprimanded is beyond the scope of the appeals process. Therefore no relief is provided at the Director's Level of Review.

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3004, 3005, 3190, 3391

CDC Operations Manual Section: 54030.1, 54030.13.2, 54030.17

AB 05/03: PROCESSING OF ADULT INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH

ALLEGE STAFF MISCONDUCT

C. ORDER: No changes or modifications are required by the Institution.

RUSSELL MARTIN, E67269 CASE NO. 0716762 PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

Inmate Appeals Branch

Warden, SVSP cc:

Appeals Coordinator, SVSP

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You may appeal any policy, action or decision who committee actions, and classification and staff recommender, who will sign your form and state who documents and not more than one additional pagifor using the appeals procedure responsibly.	oresentative decision at action was taken, e of comments to the	s, you must lirst inform If you are not then sa	ally seek refiel thro tisfied, you may s vitnin 15 days of th	ough discussion with the appropri end your appeal with all the su
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W BRANCH

NATE REQUEST FORM, FROM THE LITIBATION COORDINATOR CONFIR sed his + 1 MING, I WAS SCHEDULED WITH ISVSA) FOR 6/25/2007 AT 8:30 AM TO APPEAK BY PhoNE with The Judge . SET LOCKE, I STATED VERBATIM / L don'T GIVE A FUCK Who YOU had A PhoNE CALL SCHEDULED WITH YOU IS NOT GETTING ANY PROPERTY. I AM TURNING OFF YOUR WATER FOR TEN days " SET LOCKE, KNOWINGLY, MALICIOUSLY, AND SADISTICALLY, ABUSING his AUTHORITY AS A SUPERVISUR IN D-2 Ad-SEG UNIT BY VIOLATING THE PULI-LIES AND PROCEDURES OF CCR. TOTLE 15. SEC. 3160. 10 BY DELIBERATELY VIOLATING MY STATE AND FEDERAL RIGHT BY OBSTRUCTING MY ACCESS TO THE COURTS. AS WELL AS CCR. TITLE 15. SEC. 3164. (C) which [STATES VERBATIM]. INMATES WhO ARE WUSED IN ANY RESTRICTED UNIT AND WHO ARE NOT SERVING A PERIOD OF DISCIPLINARY DETENTION MAY POSSESS AND HAVE ACCESS TO ANY AND ALL LEGAL RESOURCE MATE-RIAL AVAILABLE TO THE GENERAL POPULATION . SET LOCKE'S, UNNECESSARY BEHAVIOR AND CONDUCT IS DISRUPTING ORDERLY OPERATIONS WITHIN THE INSTITUTION OR TO INCITE AND PROVOKE VIOLENCE, VIOLATING CCR. TITLE 15. SEC. 3004. (2) (b) & (C). I have . REPEATEDLY REQUESTED TO SPEAK TO SET LOCKE'S, SUPERVISOR . PER LER . TITLE 15. SEC. 3332. Id AND have BEEN DENIED. SET LOCKE HAS A PROFESSIONAL RESPONSIBILITY TO JEAL WITH INMATES ON A JAILY BASIS BASED ON THE FACT HE IS A SUPERVISER OF A Ad-SEG UNIT, AND has SUPERVISION OYER CORRECTIONAL OFFICERS. SET LOCKE. BEHAVIOR AND CONDUCT IS SITTING A BAD EXAMPLE FOR STAFF UNDER his SUPERVISION. IN JOING . THE ACTS COMPLAINT OF SGT LOCKE, HAS IMPLEMENTED A POLILY THE REPUDINTED APPELLANTS CONSTITUTIONAL RIGHTS AND WAS UNLONSCIONABLE UNDER DOLTRINE DE SUPERVISORY LIABILITY FRILURE TO TRAIN AND SUPERVISE SOT LOCKE, BEHAVIOR AND CONDUCT MUST BE DEEMED INAMPROPRATE BY This Administration.

I DECLARE UNDER PENALTY OF PER JURY THAT THE FORGOING IS TRUE AND LORRECT

DATE 6/27/2007

RESPECTFULLY SUBMITTED

APPELLANT.

Attachment E 2/21/06

'State of California

Memorandum

Date

09/11/07

Τo

Martin, E67269

D2-124L, Salinas Valley State Prison

Subject:

STAFF COMPLAINT RESPONSE - APPEAL # SVSP-D-07-03489

APPEAL ISSUE: The appellant states that Correctional Sergeant L. Locke refused to issue him his ASU property and his legal paper work. Appellant states that Sgt. Locke's unnecessary behavior and conduct is disrupting the orderly operations within the institution or to incite and provoke violence.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY

REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the conclusion of any internal affairs investigation)

SUMMARY FOR APPEAL INQUIRY:

You were interviewed on September 11, 2007 by Correctional Lieutenant R. Boccella. The appellant provided no new statements in regards to this appeal.

The following witness was questioned: Correctional Sergeant L. Locke.

The following information was reviewed as a result of your allegations of staff misconduct: The 602 appeal itself were the appellant had stated the appeal was resolved (verified by his signature).

FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is PARTIALLY GRANTED at the \boxtimes First level, as an inquiry into your allegation has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:

Warden/CDW/HCM (Second Level) AW/Med. Mgr. (First Level)

Date

State of California

Memorandum

November 19, 2007 Date

To Inmate MARTIN, CDCR # E67269

Facility-D D2-124

Salinas Valley State Prison

Subject: STAFF COMPLAINT RESPONSE - APPEAL # SVSP-D-07-03489

> APPEAL ISSUE: Appellant alleged he spoke with Correctional Sergeant Locke regarding his request to access his legal property stored in the Administrative Segregation Unit (ASU). Appellant said he told the sergeant that he had two active court cases pending in State and Federal Court and that he had a scheduled "court call." Appellant claims the sergeant told him, "I don't give a [expletive deleted] who you had a phone call scheduled with." Appellant claimed the sergeant impeded his access to the courts by refusing to assist him. At the Second level of review the appellant stated his disagreement with the timeliness of the First level review. Appellant alleged the sergeant falsified a report against appellant out of retaliation. The appellant did not attach anything to this appeal.

> **DETERMINATION OF ISSUE**: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

> PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY \boxtimes REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the conclusion of any internal affairs investigation)

SUMMARY FOR APPEAL INQUIRY:

You were interviewed on 09/11/07 by Lieutenant Bocella and provided no statement. The following witness(es) was/were questioned: Sergeant Locke. The following information was reviewed as a result of your allegations of staff misconduct: instant appeal.

FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is PARTIALLY GRANTED at the \square First level \boxtimes Second level, as an inquiry into your allegation has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

G.A. NEOTTI

Chief Deputy Warden Salinas Valley State Prison

6-7

STATE OF CALIFORNIA CDC 1858 (2/97)

DEPARTMENT OF CORRECTIONS

RIGHTS AND RESPONSIBILITY STATEMENT.

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disiplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER DATE SIGNED E-67269 1/27/08
RUSSEII MARTAV RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED
_		

DISTRIBUTION:

ORIGINAL

PUBLIC - Institution Head/Parole Administrator Inmate/Parolee - Attach to CDC form 602 Employee - Institution Head/Parole Administrator COPY - Complainant STAFF REFESED TO SIGN

Sgt. Locke.

RECEIVED

ESTID AUG 2 2 2007

AW/GUIMPLEX H

INMATE APPEAL ROUTE SLIP

To: CA2 Date: August 20, 2007

From: INMATE APPEALS OFFICE

Re: Appeal Log Number SVSP-D-07-03489 By Inmate MARTIN, E67269 AUG 7 3 2007

Please assign this appeal to appropriate staff for **FIRST** level response.

Appeal Issue: STAFF COMPLAINTS

Due Date: 09/19/2007

Special Needs:

STAFF INSTRUCTIONS: <u>Per Director's Rule 3084.5(f)</u> (2) first level <u>appeal review requires a personal interview with the inmate unless the appeal is granted</u>. This policy is not within the institution's jurisdiction and cannot be waived. Director's Rule 3084.5(f) (3) provides that a telephonic interview may be conducted if the inmate is not available in person.

Begin response with GRANTED, DENIED, PARTIALLY GRANTED or WITHDRAWN. When complete, return appeal to the Appeals Office. All first level appeals require signature of the Division Head. Appeals that are incomplete will be returned for appropriate completion.

Refer to D.O.M. 54100 for instructions.

T. VARIZ, CC-II / E. MEDINA CC-II Appeals Coordinators Salinas Valley State Prison

THIS ADARA IS A COMPAINT AGAINST SCT. LOUKE

EXHIBIT DITHEO 2



isore. Property: Funds appeals must be accomparised by a completed

Date Submitted: _

CDC Appeal Number

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS Location Institution/Parole Region Log No Category INMATE/PAROLEE APPEAL FORM You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly. HAME UNIT/ROOM NUMBER NUMBER ASSIGNMENT E-67269 RUSSELL MARTINE A Describe Problem PAI 7/3/07 I WAS INTERVIEWED BY PSYCH TECK PANAI, OWRING THAS INTERNIEW SHE WAS TAKING NOTES. I TOLD HER I WAS ASSAULTED BY CORRECTIONAL OFFICER ("40") D. BEATTY I ALSO TOLD HER I WAS HAVING PROPLEMS TRYING TO SPEAK TO THE UNIT LIEUTENANT ("LT") TREING TO GET MY IN JURIES DOCUMENTED ON LAMERA BECAUSE STAFF IS DELIBERATELY THROWING AWAY MY GOD'S AND REON EST FOR INTERVIEW FORMS TO THE APPEALS COORDINATOR, AND UNIT LT. I ASKED HER TO NOTIFY THE IT ON MY BEHALF TO ME AVAIL, IN OCT 2007 I FILED FOR A OLSEN REVIEW OF MY MEDICAL PECONDS TO GET A COPY IF THIS ENTERVIEW SEE BATTOLAN If you need more space, attach one additional sheet. B Action Requested: WAS PSYCH TECH PRULL, OBLIGATED TO NOTIFY HER SURFRY SOR MAN OR CUSTODY. (2) THAT THE SUPPRESSED COUNTENTS BE LOCATED AND A COPY FOR WARDED TO ME . (3) AND FOR AN AFFICIENT STATING THE DOCUMENTS 1052 Inmate/Parolee Signature. C INFORMAL LEVEL (Date Received: _ Date Returned to Inmate: _ Staff Signature Hyou are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response

WITH PSYCH TECH PAULI. THERE WAS NO RECORD OF IT ON FILE WHICH WAS ODD BELAUSE SHE hAD TO MAKE A RELOMMENDATION FOR ME TO BE SEEN BY A PSYCHIATRIST . I SPOKE WITH MS . PAULI, EARLY NOV 2007 AND MSKED her WHERE LAN I LOCATE THIS INFERMATION AECAUSE IT'S NOT IN MY MEDICAL FILES SHE BECAME DEFENSIVE, AND SMARTALEC AND STATED I did WHAT MY SUPERVISOR TOLD ME TO do WITH IT "I COULDN'T BELIEVE THIS STATEMENT." I ASKED HER A LOUPLE DAY'S LATER TO MAKE SURE HER STATEMENT WAS ACCURATE. I ASKED HER ALAIN IF THAT WAS HER STATEMENT, AND SHE RECITED IT [VERBATIM]: I did WHAT MY SUPERVISOR TOUR ME TO do with IT. I ASKED HER WHAT WAS HER SUPERVISOR NAME, AND SHE SAID ROBERTS, SHE ALSO STATED SHE IS WAITING ON YOUR COMPLAINT. BASED ON THESE FACTS IT IS ABSOLUTELY CLEAR PAULI AND HER SUPERVISOR MS. ROBERTS, HAVE LONSPIRED TO AND did DESTROYED VALUABLE PERTINENT EVIDENCE IN AN ATTEMPT TO COVER UP THEIR PERSONAL KNOWLENGE OF EXCESSIVE FORCE BY GO D. BEATTY IN VIOLATION OF PENAL CODE \$ 132.5. (8) E(b) SEE PEOPLE V. PEREIRA 255 CAL. RATE 285, 207 CAL. APP. 3d 1057.

PLEASE TAKE NOTICE :

THIS IS MY SELOND COMPLAINT REGARDING THIS MATTER. PAULI, REFUSED TO EXCEPT MY INITIAL COMPLAINT AGAINST HER AND HER SUPERVISOR I FORWARDED IT DIRECTLY TO THE APPEALS COORDINATER REQUESTING A LOB NO * PER DOM 54100.9 TO NO AVAIL. NOW THIS ONE IS BEING SENT TO SUPERVISOR PSYCHIATRIST MS. ROBERTS. CONFIDENTIAL MAIL FOR RESPONSE. "A LOPY NOT THE ORIGINAL."

I DECLARE UNDER PENALTY OF PERSURY THAT THE FOREGOING IS TRUE
AND CORRECT.

DATE 12/31/07

RESPECTAVUS SUBMITTED

EXHIBIT E - 1 PAGE

EXHIBIT:

	State of California Department of C			rrections and Re	ehabilitation	Salinas Valley State Prison			
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INMATE/PAROLEE APPEAL FORM COC 502 11 12/871	1 2	Log No.	7.03H3	7
You may appeal any policy, action or decision committee actions, and classification and staff member, who will sign your form and state a documents and not more than one additional plan using the appeals procedure responsibly.	representative decisions, y what action was taken, if	you must first informally seek you are not then satisfiedv	reliel through discussion with ou may send your appeal wi	i the appropria
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THE WITHER HANDS AND DETERMINE THAT THE FOOD CUFF PORT CAN BE SAFELY OPENED.

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AS OVER THE CELL LIGHTS THE FOOD ! LUFT PORT " WILL NOT BE BPENED!"). he had something in his hand and TRIED TO THROW IT INTO THE LELL THROUGH THE FOOD / CUFF PORT. I BLOCKED IT WITH MY HANDS, BUT COULDN'T TELL WHAT THE ITEM WAS. I ASKED him MAN WHAT ARE YOU doinG? AT THAT POINT, I hAVE MY HANDS ON THE FOODSLUFF PORT. CO BEATLY TAKES his O.C. SPRAY OFF his side . I TELL him IF hE SPRAY ME THATS ASSAULT, HE TAKES TWO OR THREE STEPS BACKWARDS, AND THEN KILKED THE FOODLEUFF PORT WITH SO MUCH FORCE IT BUST MY FINGERS OPEN WHICH STARTED TO BLEED IMMEDIATELY ALL OVER THE CELL HE THEN SPRAY ME WITH A WHOLE LAN OF O. Q. SPRAY AND SLAMMED THE FOOD PUFF PORT CLOSED! AND LEFT ABOUT A MINUTE OR TWO LATER HE RETURNS TO MY CELL OPEN THE FOODSLUFF PORT AGAIN AND AROPS A PIECE OF TORE SHEET ON THE FLOOR AND START YELLING STOP TRYING TO KILL YOUR -- SELF AND TELL THE CONTROL OFFICER TO PUSH THE ALARM. WHEN RESPONDING STAFF ARRIVED GO BEATTY, STATED I TRIED TO HAND MYSELF POINTING AT THE LIGHT IN THE CEILING, BUT THERES NOTHING HANGING FROM THE CEILING TO SUPPORT his FALSE ALLEGATIONS. I REPEATEDLY TELL THE TWO SERBEANTS ("SUT") WHO'S NAMES IS UNKNOWN AT THIS POINT. I WAS dELIBERATELY, MALILIOUSLY AND SADISTICALLY ASSAULTED BY "TO BEATTY, WHO USED UNNECESSARY USE OF EXLESSIVE FORCE VIOLATING CCR. TITLE 15. SEC. 3268. (2) 12). I PLEADED WITH THEM TO INVESTIGATE THE CRIME SCENE BECAUSE MY TWO STATE ISSUED SHEETS WAS NOT TORE. I WAS ORDERED TO HANDLUFF UP WHICH I COMPLIED. I WAS THEN TRANSPORTED TO THE INFIRMARY DY AMBULATORY AND TREATED FOR MY IN SURIES AND PLACED ON SUILIDE WATCH FOR APPROXIMATELY EIGHT hours And IT WAS DETERMINED BY PSYCHIATRIST I WAS NOT SUILIDAL I RELEIVED X-RAYS PER DOLTOR'S ORDERS AFTER HE SEEN THE DAMAGE TO MX HANDS BEFORE I WAS RETURNED BACK TO MY CELL . WHICH THE OFFICERS MOVED ME FROM B-SECTION TO C-SELTAN TO Avoid ME FROM GETTING STATEMENTS FROM WITNESSES. TO BEATTY, SUPERVISOR NOR THE WATCH COMMANDER CONDUCTED AN ON LAMERA INTERVIEW WITH ME WHEN THEY KNEW OR Should have known "O BEATTY, had AdSULUTELY NO AUTHORIZATION TO OPEN THE FOODSCUFF PORT. This WAS A CLEAR COVER OF BY SALINAS VALLEY OFFICIALS. I do have witnesses to the facts of This complaint.

DATE 7/9/2007

RESPECTAVLLY SUBMITTED

STATE OF CALIFORNIA

CDC 18.58 (2/97)

DEPARTMENT OF CORRECTIONS

RIGHTS AND RESPONSIBILITY STATEMENT

The California Department of Corrections has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.

Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. [An inmate/parolee who makes a complaint against a departmental peace officer, knowing it is false, may be issued a serious disiplinary rule violation, in addition to being prosecuted on a misdemeanor charge.]

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED
INMATE/PAROLEE PRINTED NAME RUSSE // MARTIN	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER DATE SIGNED E-67269 9/10/07
RECEIVING STAFF'S PRINTED NAME		DATE SIGNED

DISTRIBUTION: ORIGINAL -

Public - Institution Head/Parole Administrator Inmate/Parolee - Attach to CDC form 602 Employee - Institution Head/Parole Administrator

COPY - Complainant

Document 1-2

9-10-07 (

Filed Ø8/26/2008

Page 24 of 25

F-4

State of California

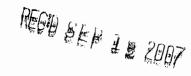
emorandum

ate :

8/14/2007

Inmate Martin, CDCR # E-67269

D2-124L



Subject:

STAFF COMPLAINT RESPONSE - APPEAL # SVSP-D-07-03143

APPEAL ISSUE:

Inmate Martin claims that Correctional Officer Beatty used OC pepper spray, spraying him because he had covered his cell windows during count. Inmate Martin stated that he had covered his cell windows in an attempt to talk to the Lieutenant, because he was having trouble getting to the Law Library. Inmate Martin stated that as Officer Beatty was conducting his count, he (inmate martin) had covered his cell windows and was refusing to respond to Officer Beatty as he knocked on the cell door. Later after count inmate Martin claims that Officer Beatty opened the food port and attempted to throw something inside the cell, but he (inmate Martin) blocked it with his hands and then as he was talking to Officer Beatty through the open food port, Officer Beatty kicked the food port in an attempt to close it, smashing inmate Martin's fingers in the process. Then when the food port fell open, Officer Beatty sprayed him with OC Pepper Spray and made it appear as if inmate Martin was attempting to commit Suicide.

DETERMINATION OF ISSUE: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

\boxtimes	PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY
	REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the
	conclusion of any internal affairs investigation)

REC'D SEP 26 2007

SUMMARY FOR APPEAL INQUIRY:

On August 14, 2007, a video interview was conducted by Lieutenant J. Stevenson. During this Video Interview inmate Martin stated that officer Beatty assaulted him by spraying him with OC Pepper Spray and by kicking the food port closed smashing his fingers. Inmate Martin stated that the inmates in cells D2-112, 114, 115 and 214 witnessed the incident, but he were unable to give Lieutenant Stevenson their names or identify them. As a result, no witnesses were available for questioning. The following information was reviewed as a result of inmate Martin's allegations of staff misconduct: Staffs report in Incident SVSP-CEN-07-06-0428, the Medical Report of Injury (7219) conducted after the incident, photo copies (four pictures) on the noose that was placed into evidence and inmate Martin's written statement submitted to Lieutenant Stevenson on 8/15/2007.

Correctional Officer D. Beatty was interviewed on 8/23/2007.

K-3

Inmate Martin, E-67269, (D2-124) Staff Complaint # SVSP-D-07-03143

FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is PARTIALLY GRANTED at the \boxtimes First level as an investigation is being conducted by the Office of Internal Affairs. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:

G. Lewis

Correctional Administrator Complex II

Salinas Valley State Prison

5/27/07

Tin Gages 3: 08 evz 04067-VFW / Document 1-3 Filed 08/26/2008 Page 1 of 24

n dissatisfied with This DECISION. COD. BEATTY FAISIFIED his ENTIRE REP -N THE COURSE OF his duty, UNDER COLOR OF STATE INW, AND FILED IT OUT OF RET -FION BELAUSE HE KNEW I WAS GOING TO FILE A GRIEVANCE ALAINST HIM FOR BERATELY ASSAULTING ME This WAS A CRIMINAL ACT I WAS SUBJECTED TO WITH HILLING EFFECT. UNDER CIRCUMSTANCES Which did NOT ADVANCE LEGITIMATE NOLOGICAL GOALS SUCH AS PRESERVING INSTITUTIONAL ORDER AND DISCIPLINE . HIS LONDUCT VOILATED CONTEMPORARY STANDARDS OF DECENCY. CO BEATTY, ALLEGED TO SGT D. WILLIAMS, THAT HE ASSAULTED ME IN SELF DEFENSE ONCE hE MADE THESE FALSE ALLEBATIONS THE WhoLE SITUATION BELAME A CRIME SCENE. THE WHOLE SITUATION WAS SUPPRESSED AND COVERED UP FROM THE BEGINNING . I hAD MY hANDS SLAMMED IN THE FOODSCUFF PORT BOOR BUSTING MY FINDERS OPEN, PEPPER SPRAYED. SET WILLIAMS, NEVER TOOK CONTROL OF THE CRIME SCENE. THERE WAS "NO "PHOTO GRAPHS, OR VIDEO TAPING OF MY INJURIES NOR THE CELL had PhotoGRAPHS BEEN TAKEN OF THE CELL THEY WOULD HAVE LORROBORATED MY STATEMENT OF THE INCIDENT WHICH TOOK PLACE, THEY WOULD HAVE Showed I had PAPER ALL OVER THE CELL FLOOR WITH THATE ON IT I USED TO LOVER UP THE CELL WINDOWS . I had A MATTRES'S ROLLED UP ON THE TOP BUNK AT THE END AS YOU ENTER THE CELL I had Blood All over ME And The Flour MY CLOTHING WAS NOT TAKEN INTO EVIDENCE OR MY BED SHEETS . L" THERE WAS NO STRINGS HANDING FROM THE CEILING LIGHT NOR VENTIL .-ATION. TO BEATTY NEVER MENTIONED IN his REPORT HOW OR WHAT I WAS UTILIZING TO ALLEGEDLY HANG MYSELF IT hAD TO BE SOMETHING FOR him TO OPEN UP THE FOODLEUFF PORT IN AN ATTEMPT TO PEPPER SPRAY ME AS hE ALLEGED IN his REPORT " (his REPORT do NOT Show PROBABLE" I WAS NOT GIVEN A 114-D LOCK UP ORDER UNTIL IL DAYS LATER I didN'T RECEIVE THE C.D.C. 115 UNTIL 19 dAYS LATER.) "THERE WAS NEVER ANY DOCUMENTAT -MON OF ANY PHOTO BRAPHS BEINE TAKEN IN ANY OF THE OFFICERS REPORTS. NOW I GET A RE-SPONSE ON MY EXCESSIVE FORCE COMPLAINT AND THERE IS MENTION OF PHOTOGRAPHS TAKEN OF THE NOOSE TO BEATT GROPED ON MY CELL FLOOR. This IS LIRCUMSTANTIAL EVIDENCE IN ANY COURT OF LAW SYSP IS TAMPERINE WITH EVIDENCE.

BASED ON THE ABOVE I AM RESPECTIVILY REQUESTING THAT THIS COMPLAINT BE GRANTED

DATE 9/11/2007

RESPECTIONS SUBMITTED

State of California

Memorandum

Date : October 5, 2007

Τo Inmate MARTIN, CDCR # E67269

Facility-D D2-124

Salinas Valley State Prison

STAFF COMPLAINT RESPONSE - APPEAL # SVSP-D-07-03143 Subject:

> **APPEAL ISSUE:** Appellant stated on June 28, 2007, Officer Beatty used OC Pepper Spray, spraying him because he had covered his cell window during count. Appellant stated he had covered his cell windows because he wanted to talk to a Lieutenant about access to the law library and to obtain legal material. Appellant stated the officer was conducting count and had refused to respond to the officer as the officer knocked on his cell door. After count, the appellant alleged the officer returned to his cell and opened the food port to attempt to throw something inside of his cell, which appellant claims he blocked with his hands over the food port. Appellant stated as he was blocking the officer's attempt to throw something in his cell, the officer kicked the food port door to close it and smashed appellant's fingers. Appellant stated the officer then used OC Pepper Spray on him and attempted to make is appear as though the appellant was attempting to commit suicide.

> **DETERMINATION OF ISSUE**: A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

> PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the conclusion of any internal affairs investigation)

SUMMARY FOR APPEAL INQUIRY:

You were interviewed on August 14, 2007 via video tape by Correctional Lieutenant Stevenson and stated that officer Beatty had assaulted you by spraying you with OC Pepper Spray and by kicking the food port door closed, smashing your fingers. Appellant stated the inmates in cells D2-112 D2-114 D2-115 and D2-214 witnessed the incident. The Lieutenant did not interview the occupants of those cells because the Lieutenant said the appellant did not provide the (The following witness(es) was/were questioned: NONE. The names of any witnesses. following information was reviewed as a result of your allegations of staff misconduct: Incident Report SVP-CEN-07-06-0428, 7219, four pictures of a noose, appellant's written statement.

FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is PARTIALLY GRANTED at the \square First level \boxtimes Second level, as an inquiry into your allegation has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Inmate MARTIN, E67269 Case No. SVSP-D-07-03143 Page 2

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

G.A. NEOTTI

Chief Deputy Warden Salinas Valley State Prison STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: JAN 1 4 2008

In re: Russell Martin, E67269 Salinas Valley State Prison P.O. Box 1020 Soledad, CA 93960-1020

IAB Case No.: 0712069 Local Log No.: SVSP-07-03143

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner A. A. Read. All submitted documentation and supporting arguments of the parties have been considered.

- I APPELLANT'S ARGUMENT: It is the appellant's position that on June 28, 2007, Salinas Valley State Prison (SVSP) Correctional Officer (CO) D. Beatty used Oleoresin Capsicum (OC) Pepper Spray on the appellant due to the appellant covering his cell windows during the count. The appellant states that he covered his cell windows because he wanted to speak with a lieutenant about the appellant's access to the law library and to obtain legal material. It is contended that the officer was conducting the count and had refused to respond to the officer as the officer knocked on the appellant's cell door. After count, the appellant alleges that CO Beatty returned to the appellant's cell door and opened the food port to attempt to throw something inside of the appellant's cell, which the appellant claims that he blocked with his hands over the food port. The appellant claims that as he was blocking the officer's attempt to throw something into the appellant's cell, CO Beatty kicked the food port door to close it and smashed the appellant's fingers. The appellant claims that CO Beatty then used OC Pepper Spray on him and attempted to make it appear as though the appellant was attempting to commit suicide. The appellant requests that an immediate investigation is conducted by an outside organization pursuant to CDC Operations Manual Section (DOM) 31140.6 and that an on camera interview is conducted to document the appellant's injuries.
- II SECOND LEVEL'S DECISION: The reviewer found that the appellant's concerns have been properly addressed by involved and/or assigned SVSP staff. The Second Level of Review (SLR) states that the appellant was interviewed on August 14, 2007, by Correctional Lieutenant J. Stevenson regarding the appellant's appeal issues. The reviewer states that the appellant's appeal was granted in part at the First Level of Review (FLR), in that a thorough confidential appeal inquiry into the appellant's allegations was conducted by administrative staff. The appellant was advised that the appeal inquiry was completed; however, the appellant was not advised of the specific finding, as all staff complaint findings are confidential and would not be released to the appellant. On September 11, 2007, the appellant requested a SLR and reiterated his position that he was not satisfied with the FLR response. The appellant did not provide any additional compelling information or facts to warrant modification of the FLR response. The appellant's appeal is granted in part at the SLR, as an inquiry into his allegations has been conducted. All staff personnel matters are confidential in nature and as such, results of any inquiry will not be shared with staff, members of the public or inmates. Although, the appellant has the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. Based upon the aforementioned information, the SLR granted in part the appeal.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The documentation and presented arguments are persuasive that the appellant has failed to support his appeal issue with sufficient evidence or facts to warrant a modification of the SLR. The examiner reviewed California Code of Regulations, Title 15, Section (CCR) 3004, Rights and Respect of Others, CCR 3268, Use of Force, CCR 3271, Responsibility of Employees, and CCR 3391, Employee Conduct. Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff and an inquiry has been completed at the SLR.

RUSSELL MARTIN, E67269 CASE NO. 0712069 PAGE 2

The examiner contacted Correctional Counselor II T. Variz, Appeals Coordinator, in the SVSP Appeals Office on December 10, 2007, to request and obtain a copy of the finalized inquiry report. On December 10, 2007, the examiner received a faxed copy of the inquiry report containing the institution's decision and/or action taken regarding the appellant's complaint. In the event that staff misconduct was substantiated, the institution would take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the appeals process. The appellant has not shown any documentation or other verified evidence that would lend credence to his appeal issues and requests. The appellant has been duly informed regarding his appeal issues and responding institutional staff has addressed all pertinent areas of the appellant's complaint. The examiner finds that the appellant has failed to present any new documentation and/or evidence that would substantiate his claim; therefore, justification for intervention at the Director's Level of Review is not warranted.

B. BASIS FOR THE DECISION:

California Penal Code Section: 832.5, 832.7, 832.8, 5058

CCR: 3001, 3004, 3084.1, 3268, 3268.1, 3268.2, 3270, 3271, 3278, 3391

DOM: 13030.10, 31140.14

Administrative Bulletin (AB) 98/10: PROCESSING OF INMATE/PAROLEE APPEALS, CDC FORMS

602, WHICH ALLEGE STAFF MISCONDUCT

AB 05/03: PROCESSING OF ADULT INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH

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C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.

N. GRANNIS, Chief Inmate Appeals Branch

cc: Warden, SVSP

Appeals Coordinator, SVSP

EXHIBIT G-I PAGE

Case 3:08-cv-04067-VRW Document 1-3 STATE OF CALIFORNIA ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE

CDC'114-D (Rev 10/98)

Filed 08/26/2008

Page 7 of 24 G-/ DEPARTMENT OF CORRECTIONS

DISTRIBUTION: WHITE - CENTRAL FILE BLUE - INMATE (2ND COPY) GREEN - ASU

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CDC 115 (7/88)

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STATE OF CALIFORNIA 3

DEPARTMENT OF CORRECTIONS

RULES VIOLATION	REPORT - PART C		<u> </u>	PAGEZOF_Z_		
CDC NUMBER E-67269	INMATE'S NAME MARTIN		LOG NUMBER \$07-06-0033	S.V.S.P.		TODAY'S DATE 09/07/07
SUPPLEMENTAL	X CONTINUATION OF:	115 CIRCUMS	TANCES HEARING	X IE REPORT	OTHE	₹
Bullion Santon	and Ameliana)					

that my CDC 115 hearing be tape recorded so my questions and answers will be on record. I truly believe that's the only way I'll receive a fair and impartial hearing at SVSP. If my request is denied, I am requesting the appointment of counsel since I am charged with a false crime. Please take notice: This also places all SVSP top officials on notice the charge against me is false and you will be committing a felony if you conspire with C/O D. Beatty and cover up "his misconduct." I declare under penalty of perjury the foregoing is true and correct.

I Russell Martin, E-67269, housed at Salinas Valley State Prison on 6/28/2007 I was deliberately assaulted by Officer D. Beatty who used unnecessary excessive force. Officer Beatty then falsified an entire CDC 115 in the course of his duty accusing me of "attempted on a peace officer with the use of force O.C. spray." The entire incident was covered up by responding staff who did not collect or photograph valuable pertinent evidence. The following evidence was suppressed. (1.) The crime scene was never photographed or processed. (2.) Officer D. Beatty kicked the food/cuff port door and busted my right hand open. The food/cuff port was not swabbed for blood or photographed. (3.) No photograph was taken of the alleged crime scene. Had photographs been taken they would have corroborated my statement of the incident which took place. The photographs would have showed I had a mattress rolled up on the top bunk at the end as you enter the cell. They would have shown I had paper on the floor with tape on it, I used to board up all my cell windows. (4.) Staff knew I was injured and never photographed my injuries nor took a statement from me. (5.) I had blood all over me and the blood none of my clothing was taken as evidence "nor" bed sheets. (6.) I didn't receive a 114D lock-up order until 12 days after the alleged incident happened. (7.) I received the CDC 115 until 17 days after the alleged incident violating CCR Title 15 sec. 3320.(2) & (C)(1) & (f)(1). I declare under penalty of perjury the foregoing is true and correct."

REPORTING EMPLOYEE'S STATEMENT: On 09/06/07, I interviewed Correctional Officer D. Beatty and he made the following statement: "I approached Immate Martin's cell, he was sitting on the top bunk, I saw Immate Martin placing a nosse around his neck. I gave him orders to stop and he did not. I pressed my alarm and opened the foodport, immate then jumped off his bunk and reached with both arms out through the food port and tried to grab my belt. I backed up and kicked the food port closed and caught Immate Martin's fingers, I then sprayed him and he complied to orders, I was able to secure the foodport."

STAFF WINESS' STATEMENT: On 09/07/07, I interviewed Correctional Sergeant Williams and he made the following statement: "I responded to an alarm in D2 and was informed by C/O Beatty that Innate Martin attempted to commit suicide by an innate hanging device. C/O Beatty stated Innate Martin would not comply to orders and he opened the foodport to spray Innate Martin. C/O Beatty stated that when the foodport was opened, Innate Martin tried to grab his duty belt, then he closed the foodport. While this took place Innate Martin's right hand was caught on the foodport. I saw what appeared to be blood on his hand. CTC was called and Innate Martin was evaluated by the RN."

Reporting Employee requested at the hearing: Yes.

Investigative Employee requested at the hearing: No.

Staff / Irmate witnesses requested at the hearing: Yes, Lieutenant Roque

Sergeent Battles Sergeent Williams Officer Sheffer Officer Crawford

4 30

Officer Senchez RN V. Welzenbach

Additional information in Confidential Reports: No.

J. Ruelas, Correctional Officer					
	SIGNATURE OF WRITER		DATESIGNED		
	J. Paul		9/10/07		
	GIVEN BY: (Staff's Signature)	DATE SIGNED	TIME SIGNED		
COPY OF CDC 115-C GIVEN TO INMATE					
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Case	3:08-cv-04067-VRW	Document	1-3 Filed 08/26/2	2008 Page	13 of 24	H-5		
STATE OF CALIFORNIA		•	*			T OF CORRECTIONS		
RULES VIOLATION	REPORT - PART C				ı	PAGE_2OF_4		
CDC NUMBER	INMATE'S NAME		LOG NUMBER	INSTITUTION		TODAY'S DATE		
E-67269	MARTIN		S07-06-0033	S.V.S.P.		09/24/07		
SUPPLEMENTAL.	CONTINUATION OF:	115 CIRCUMS	TANCES HEARING	☐ IE REPORT	OTHE	R		
Hearing: 09/24/07. Time: 1500 hours. Any Postponement Explained: The hearing was convened on 09/20/07. However, the hearing was positioned pending the availability of evidence (Noose). On 09/24/07, the hearing was reconvened and ISU Officer Salao was present with the noose, which was brought from Evidence Looker #9.								
Inverte's Health: Inverte MARITN stated his health was good. MHSDS: Inverte MARITN is not a participant in the Mental Health Services Delivery System. However, the circumstances of the RVR do indicate that Inverte MARITN exhibited bizarre behavior that raised concerns about his mental health. Pased on this a Mental Health assessment was completed by Dr. D. Hamlin, on 07/24/07, and revealed the following:								
	mental health factors rocess and representing istant?							
	called the event and d was fabricated to cove			oricated noose.	Irmate n	eported that this		

2) In your opinion, did the inmate's mental disorder appear to contribute to the behavior that led to the RVR?

A: DID NOT ANSWER

3) If the inmate is found GUILIY of the offense, are there any mental health factors that the Hearing Officer should consider in assessing the penalty?

A: DID NOT ANSWER

Based on the Mental Health assessment, the SHD feels that the inmate's behavior did not contribute to the RMR.

Date of Discovery: 06/28/07. Hearing started on: 09/20/07.

Last document issued to immate on: 09/10/07.

D.A. results issued date: Pending.

Initial RVR copy issued on: 07/14/07.

Hearing reconvened on: 09/24/07.

D.A. postponed date: 07/16/07.

D.A. postponement nevoked: 08/31/07.

Time Constraints: The RVR was not issued within fifteen (15) days of the date of discovery. Therefore, time constraints have not been met.

Staff Assistant: A Staff Assistant was not assigned per COR \$33(15(d)(2),

Investigative Employee: On 09/04/07, Correctional Officer J. Ruelas was assigned as the Investigative Employee.

D.A. Referral: This matter was referred to the District Attorney for possible felony prosecution. Inmate MARTIN did originally request his hearing be postponed, pending the outcome of the D.A. referral, as documented by his signature on the CDC-115A, dated 07/16/07. However, via an Inmate Request For Interview, addressed to Courselor Mensing and dated 08/31/07, Inmate MARTIN requested this RVR be heard and revoked his postponement. Inmate MARTIN was advised by this SHO at the time of the hearing that any information developed through the disciplinary process can be used against him as evidence in the prosecution pursuant to CCR §3318(b)(2)(B). Inmate MARTIN stated he understood and was willing to proceed with the hearing. The outcome of the referral is still pending.

	SIGNATURE OF WRITER	DATE SIGNED
(Continued On Part C)	C.J. Warfield, Correctional	ieutenant 9/24//7
	GIVEN BY: (Staff's Signature)	DATE SIGNED TIME SIGNED
COPY OF CDC 115-C GIVEN TO INMATE		
	and the second s	

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STATE OF CALIFORNIAS

DEPARTMENT OF CORRECTIONS

RULES VIOLATION	REPORT - PART C			PAGE 3_OF 4
CDC NUMBER E-67269	INMATE'S NAME MARTIN	LOG NUMBER S07-06-	0033 INSTITUTION S.V.S.P.	TODAYSDATE 09/24/07
SUPPLEMENTAL	CONTINUATION OF: 115 C	IRCUMSTANCES .	HEARING IE REPORT	OTHER

Evidence Requested: None.

External/Outside Evidence: During the hearing the mose was introduced as evidence from Evidence Locker #9. StD ucon inspection of the moose noted that no OC 5.0 Spray odor was present on the moose neither was any blood found on it which would have resulted from a right hand laceration to Innate MARITIN.

Video Tape Evidence: N/A.

Invate Plea and Statement: Invate MARTIN entered a plea of NOT CURRY and stated, "I did not have a noise around my neck."

Witnesses Requested: Immate MARITN requested the following witnesses:

Reporting Employee Officer Beatty was Granted.

Staff Witnesses Lieutenant Rogue, Sergeant Battles, Sergeant Williams, Officer Sheffer, Officer Sanchez, RV Welzenbach were Denied.

SHD granted the Reporting Employee as a witness, however, Immate MARTIN did not have any questions to ask of Officer Beatty. SHO denied Staff Witnesses due to the staff requested being responding staff and did not see what conspired prior to their arrival, the responding staff can only speak to the incident upon what they saw when responding.

Witness Testimony at Hearing: None. Confidential Information: None.

Findings: Invate MARTIN is found CHILLY of "Attempted Battery on a Peace Officer W/Use of O.C.." This finding is based upon the following preporderance of evidence:

A: RVR Log #507-06-0033 authored by Connectional Officer D. Beatty, which states in part, "On Thursday, June 28, 2007, I was working D2 Floor #1, at about 2236 hours, I conducted a security check. During the security check I approached cell 112, which is solely cocupied by Immate MARITN, E-67269, when I looked through the cell window, I observed Immate MARTIN place a piece of tourn bed sheet around his neck. I gave orders to Invate MARTIN to remove the noose. The invate did not comply and climbed up to the top bunk and sat on the top bunk, facing the adjacent wall. I continued to give orders to stop and remove the noose, but the innate did not comply. Due to the threat of the innate hanging himself, I activated my personal alarm, and opened the foodport in an attempt to spray the inmate with my Sabre 5.0. As soon as the foodport was opened the immate jumped towards the foodport and reached both arms out in an attempt to grab my belt. I quickly jumped back and slammed the foodport closed by kicking it with my foot. As the foodport was closing, the door slammed on the immate's hand before he could retrieve it back into the cell. The immate's hand obstructed the foodport door from closing and the door remained open, and the I/M was still blocking the foodport. I sprayed my 5.0 around the face area and ordered the inmate to back away. The inmate complied and I was able to secure the foodport. When responding staff arrived I ordered the invate to back-up to the foodport and submit to hambuffs. Inverte MARITN complied. Sergeant Williams instructed the control booth officer to open the door. When the cell door was opened the immate was escorted out of his cell by Officer Shaffer and Officer Sanchez. The immate was evaluated by medical staff without further incident. The noise was gathered as evidence and placed in locker #9."

(Continued on Part C)

	C.J. Warfield, Correctional Li	eutenant	
	SIGNATURE DE WRITER		DATE SIGNED
	1. Illanall		92907
	GIVEN BY: (Staff's Signature)	DATE SIGNED /	TIME SIGNED
COPY OF CDC 115-C GIVEN TO INMATE			

Case 3:08-cv-04067-VRW Document 1-3

Filed 08/26/2008

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STATE OF CALIFORNIA 6

DEPARTMENT OF CORRECTIONS

RULES VIOLATION	REPORT - PART C			PAGE_4OF_4
	INMATE'S NAME	LOG NUMBER	INSTITUTION	TODAY'S DATE
E-67269	MARTIN	S07-06-0033	S.V.S.P.	09/24/07
SUPPLEMENTAL	CONTINUATION OF: 115 CIRC	CUMSTANCES NEARING	☐ IE REPORT ☐	OTHER

(Finding Continued)

B: CDCR 837-C Staff Report Log# SVSP-CFN-07-06-0428 authored by Correctional Sergeent D. Williams, which states in part, "Upon my arrival to the unit I was informed by Correctional Officer D. Beatty that Immate MARTIN E-67269, (D-2-112) had attempted to commit suicide by utilizing an immate manufactured hanging device (ligature) in Cell #112 solely occupied by him. Officer Peatty further stated that Innate MARITIN's failure to comply with his lawful order to surrender the inmate manufactured hanging device (ligature) caused him to take immediate action by activating his alarm, opening the foodport and spraying Inmate MARITIN with his Sabre 5.0 (O.C.). I was further informed by Officer Beatty that upon opening the food port, Inmate MARPIN attempted to grab his duty belt which led him to close the food port, during the process Inmate MARIIN received an injury to his right hand as the food port shut on it. I observed Inmate MARKIN in his cell holding his right hand with his left had, his right hand appeared to have blood on it. I called for the CTC-Nurse V. Welzenbach and the ERV via the Institutional Radio. Upon the annival of the CTC-Staff I instructed Officer Reatty to have Inmate MARTIN back up to the food port and be placed in restraints (Hand Ouffs) I then instructed Connectional Officer D. Crawford to open Cell #112, upon opening the cell CIC -Connectional Officer R. Sanchez had Immate MARTIN kneel down on his knees so that he could be placed in leg restraints by Connectional Officer R. Sanchez of CIC. Immate MARITN was then escorted from his cell by Connectional Officer S. Sheffer and C/OR. Sanchez outside for "Decon". A CDC 7219 was performed per direction of the Emergency Room Nurse V. Welzenbach, ID 2864645. Inmate was transported to CTC via ERV for treatment and further evaluation. Upon arrival to CTC Innate MARTIN was provided with additional "Decon" by escorting staff."

Conclusion: Invade MARIIN was found guilty, but no time was taken due to the fact the fifteen (15) day time for issuance of the RVR was past the fifteenth day. Therefore his rights were violated.

Finelly Concerns: None.

Appeal Rights: Inmate MARTIN was advised of his appeal rights per COR \$3084.1(a). Inmate MARTIN was advised he will receive a completed copy of the RVR upon final audit by the Chief Disciplinary Officer.

c.J. Warfield, Correctional Lieutenant

•	SIGNATURE OF WRITER		DATE SIGNED
COPY OF CDC 115-C GIVEN TO INMATE	GIVENBY: (Staff's Signature)	DATE SIGNED	TIME SIGNED

CRIME / INCIDENT REPORT PART A - COVER SHEET	Da (()		INCIDENT LO		INCIDENT DA			NT TIME
DCR 837-A (REV. 10/06)	Page 1 of 2	TOITE	SVSP-CE	N-07-06-0428	06/28/2 PROGRAM		22:36 D/SEG	USE OF
		UILDING 2		CELL 112	PROGRAM		ARD	FORCE:
SVSP					ASU		N/A	_Yes
SPECIFIC CRIME / INCIDENT Attempted Battery on a Peace Officer				CCR PC N	A NUMBER/S	UBSEC	CTION	
	CRISIS RESPONSE TE		TED	MUTUAL AI				OTIFIED
✓ Yes □ No	LATEDINFORMAT					sidud		∐ No
DEATH AND CAUSE OF DE	ATH	ASSAUL*	r / BATTER)	TYPE N/A	OF ASSAULT	/ BAT	TERY	
▼ 1 (4/0				Other Desc:				
ERIOUS INJURY INMATE	WEAPONS			YPE OF WEAPON /	SHOTS FIRED	/ FO	RCE	
V N/A			N/A 1. OC - MK- #Warning: (9 #Effect: 0 #Chemica	af: 1			-
ESCAPES N/A								
CONTROLLED SUBSTANCE WEIGH	-HT/ In Grams │ P	ROGRAM	SILTATE	FYC	EPTIONAL AC	TIVITY	· -	
		N/A		✓ N/A	EF HONAL AG	11011	<u>'</u>	
▼ N/A								
				XTRACTION:				
				✓ N/A				
BRIEF DESCRIPTION OF INCIDENT (ONE On June 28, 2007, at approximately 2 n a Peace Officer" while attempting	2236 hours, Inm	ate Marti	n E67269(staff to us	D2-112) committe e OC spray.	ed the act of	"Atte	empted	d Battery
COMPLETE SYNOPSIS / SUMMARY ON PA IAME OF REPORTING STAFF (PRINT/TYPE)	IRT A1	F		ID#		10	BADGE #	<u> </u>
AMOUNT LIE BEELIN LOUIS STARE (PRINTELL YER)				11_/#		10	~~~~ #	
			IAL LIEUTEN			1	50751	
ROQUE			IAL LIEUTEN	BHOME EXT INOID	ENT SITE	DATE		
ANNE OF REPORTING STAFF SIGNATURE OF REPORTING STAFF NAME OF WARDEN / AOD (RRINT/ SIGN)			IAL LIEUTEN		ENT SITE		6/28/2	007

RTC1 - SUPPLEMENT CR 837-C1 (REV. 10/06)	Page	2 of 2	INCIDENT LOG NUMBE SVSP-CEN-07-06	
ME LAST	FIRST			MI
PE OF INFORMATION	P			(1011
CONTINUATION OF REPORT	CLARIFICATION OF RE	PORT	ADDITIONAL INFORM	IATION
n June 29, 2007, Your Office was faxed in ritten in the body of the A1 under "Conclu- sattery on a Peace Officer". This informati pecific act of "Attempted Battery on a Peac	sion" it reads that a CI on was listed in error a	OCR 115 will b	e issued for the speci	fic act of
l appropriate administrative staff were noti is matter via supplemental reports.	ified of this incident. Y	ou will be app	rised of any further de	evelopments in
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•				
	,			
,				
				,
CHECK IF MARRATIVE IS CONTINUED ON ADDIT	IONAL C1			

N. WALKER Facility Captain (A)

STATE OF CALFOR@AS	se 3:08-cv-04067-VRW Docume	ent 1-3 Filed 08/2	26/2008 Page 18 of 24 _{DV-1.5.1}
PART A1 - SUPP	LEMENT		INCIDENT LOG NUMBER
CDCR 837-A1 (REV.		Page 2 of 2	SVSP-CEN-07-06-0428
INSTITUTION	FACILITY	INCIDENT DATE	INCIDENT TIME
SVSP	CEN - FACILITY D	06/28/2007	22:36
TYPE OF INFORMATIC		DRAATION TO	
SYNOPSIS/SUMM		DRMATION AMENDED	
pod (Administrative observed Inmate I verbal orders to rebunk ignoring the to administer OC sout of the food por port and attempted closing. Officer Bestepped away from	, at approximately 2236 hours, Officer D. re Segregation) when he approached cell Martin place a noose made from a state semove the noose with negative results. U Officers order to stop. Officer Beatty act spray when Inmate Martin quickly jumped and attempted to grab Officer Beatty by do to kick the food port closed, however Ir eatty then discharged his OC spray, spray in the door and Officer Beatty closed the forms arrived to the cell door and Officer Beatty	112, (solely occupied be sheet around his neck. Ising the lower bunk Inntivated his personal alar down from the top bury his duty belt. Officer Enmate Martin had his haying Inmate Martin in the ood port to the cell.	Officer Beatty gave Inmate Martin officer Beatty gave Inmate Martin mate Martin jumped onto the top orm device and opened the food port of the tothe door and stuck both arms Beatty stepped away from the food and in the food port keeping it from the facial area. Inmate Martin then
positive results. Ir	nmate Martin was placed into handcuffs beer Scheffer without further incident.		
	escorted from the cell and decontamina air. Inmate Martin was transported to the		
SUSPECT(S): Ma	rtin E67269		
VICTIM(S): N/A			
ESCORT(S): Ser	geant D. Williams and Officer Scheffer es	scorted Inmate Martin o	out of the cell.
EVIDENCE: Office	er Beatty collected the noose and placed	it into evidence locker	#9 ,
USE OF FORCE:	Officer Beatty used OC pepper spray in the	his incident.	
Martin and noted (L HEALTH EVAULATION: RN V. Welzer Cut/Laceration to the knuckle area of the the at any level of care at this time.		
	CDCR Inmate Martin will receive a CDCF remain on suicide precaution at CTC pen		
	This case will be referred to the Monterey istrative staff were notified of this incident nental reports.		

CHECK IF NARRATIVE IS CONTINUED ON ADDITIONAL A1

NAME OF REPORTING STAFF (PRINT/TYPE)

PROQUE

CORRECTIONAL LIEUTENANT

SIGNATURE OF REPORTING STAFF

PHONE EXT. INCIDENT SITE

6/28/2007

NAME OF WARDEN LAOD (PRINT/ SIGN)

K. JONES

CUSTODY CAPTAIN

6/29/2007

STATE OF CALFORD			067-VRW	/ Docu	ment 1-3	F	Filed: 60&	# 26/2008 0	RRECAIGNS 14	DOTE24BILITATION DV-1.5.1
PART B1 - INI CDCR 837-B1 (RI	/IATE EV. 10/06)							Pa	ge 3 of 6	
INSTIUTTION	FACIL	ITY					INCIDEN"	LOG NUMBER		
SVSP	CEN	1					SVSP-	CEN-07-06-	0428	
				INMATE	(ENTIRE SHI	EET)				
NAME: LAST MARTIN		FIRS'	T S E LL	MI NMI	CDC# E-67269	SEX M	ETHNICI BLA	TY LEGIT		CII#
PARTICIPANT SUSPECT	CLASS SCORE 229	PVRTC YES	DATE REC'D BY CDC	DATE REC'D BY INST	ANTICIPAT RELEASE D	A.T.C.	RELEASE Date Type MEPD	EXTRACTION NO	DOB	FIOUSING
IV IV INA DESC			DPP DCATIONS AND	CAUSE	COMMITMENT			USE: INMATE -	COUNTY OF (COMMITMENT
□ N/A ✓ □ DECEASED DATE	TREATED AND	RELEASED		SPITALIZED FUSED TREAT	MENT	N/A			SP/ TREATMENT TMENT CENT	
Reason For Death:	Is There No	ASCA Seiou:	s Injur N/A	PRISON GANG	G / DISRUPTIV	E GROU	JP	VALIDATED /	ASSOCIATED	

STATE OF CALFORIGAS			7-VRW	/ Doc	umer	nt 1-3	Filed∈0	8/26	/20	066 RRE 2006	es 200 qe f	AULITATION DV-1.5.1
PART B2 - STAF CDCR 837-B2 (REV.	F								P	Page 4 of 6		
INSTITUTION	FACILITY						INCIDEN.	T LOG N	IUMB	ER		
SVSP	CEN	_					SVSP-	CEN-	07-0	06-0428		
				STAFF	(ENTIR	RE SHEET	Γ)					
NAME: LAST ROQUE		FIRST		MI	TITLE		NAL LIEUTEN		SEX M	ETHNICITY	RDO'S	ý
PARTICIPANT	BAI	OGE#	T	1D #			POST ASSIG		F	POSITION		
INCIDENT COMMANDE	()			2860130			150100		\	WATCH COM	MANDER	
								ð				
N/A NAME/ LOCAT	ION OF HOSP	/ FACILITY	N/A REFU	SED TREAT	MENT [D AND RELEAS E D T ALIZE D			RCE F	PROCESSEI	EVIDENCE No
Reason For Death			DECE	ASED DATE	:			TYPE	OF I	FORCE:		
Reason For Death			Is There	ASCA Serio	ous Injur	y (No 🔵 Yes					
NAME: LAST		FIRST	******************************	MI	TITLE				SEX	ETHNICITY	RDO'S	
WILLIAMS		D			COR	RECTION	VAL SERGEA		M	BLA	S/M	
PARTICIPANT		OCE #		ID #			POST ASSIG	N #		POSITION		
RESPONDER N/A DESCRIPTION	ON OF INJURIE	EC LOCATIO	N AND CAL	28615B8			140338		1	FAC D SGT	_ .	
✓ N/A NAME/ LOCATI			₩ N/A				D AND RELEASED				_	D EVIDENCE
			1	SED TREAT	_	HOSPIT	TALIZED	_		✓ No FORCE:	Yes	✓ No
Reason For Death			DECE	ASED DATE				٠		onoz.		
			Is There	ASCA Serio	ous Injur	-y	Vo (Yes		******			
NAME: LAST		FIRST		Mi	TITLE				SEX	ETHNICITY	RDO'S	
BEATTY		D.			COR	RECTION	NAL OFFICER	₹	M	WHI	S/M	
PARTICIPANT	BAD	GE#		ID#			POST ASSIG	N#	- 1	POSITION		
VICTIM				2861498			141427			D2 FLOOR AS	U	
N/A DESCRIPTION	ON OF INJURIE	ES, LOCATIO	N AND CAL	JSE:								
N/A NAME/ LOCATI	ION OF HOSP	FACILITY	N/A REFU	SED TREAT	MENT [D AND RELEASED TALIZED	✓	Yes		PROCESSEI Yes	D EVIDENCE

DECEASED DATE

Is There ASCA Serious Injury

TYPE OF FORCE:

OC

No Yes

Reason For Death

CRIME / INCIDE		4067-VRVV	Doci	ument 1-3	FIIEOPER	2 6 72400	J&ORRECZ¶® ————————————————————————————————————	S_ANDORE_H	DV-1.5.1
PART B2 - STA						,	F f O		
CDCR 837-B2 (REV	<u>/. 10/06)</u>						Page 5 of 6		
INSTITUTION	FACILITY				INCIDENT L	OG NUME	BER		
SVSP	CEN				SVSP-C	EN-07-	06-0428		
			STAFF	(ENTIRE SHEET	<u> </u>				
NAME: LAST	FIR	ST	МІ	TITLE		SEX	1	RDO'S	
CRAWFORD	D.			CORRECTION		M	WHI	F/S	
PARTICIPANT	BADGE#		ID#		POST ASSIGN		POSITION		
WITNESS W N/A DESCRIPT	ION OF INJURIES, LO	OCATION AND CAL	2862962 ISF:		141403		D2 CONTROL		_
N/A NAME/ LOCA	TION OF HOSP/ FACI	REFU	SED TREAT	MENT HOSPIT	TALIZED	JSED FOF Yes TYPE OF	✓ No	PROCESSED Yes	EVIDENCE No
		ls There	ASCA Seric	ous Injury 💿 N	No () Yes			·	
NAME: LAST	FIR	ST	MI	TITLE		SEX	ETHNICITY	RDO'S	
SANCHEZ	R		NM	CORRECTION		M	ОТН	S/SU_	_
PARTICIPANT RESPONDER	BADGE #		ID# 2863781		POST ASSIGN #		POSITION		
N/A DESCRIPT									
N/A NAME\ LOCA	TION OF HOSP/ FACI	I —			1	JSED FOR		_	EVIDENCE
			SED TREAT	MENT HOSPIT		TYPE OF	✓ No FORCE:	Yes	✓ No
Reason For Death			ASCA Serio	ous Injury	No () Yes				
NAME: LAST	FIR	ST	MI	TITLE		SEX	ETHNICITY	RDO'S	·····
SHEFFER	S			CORRECTION	NAL OFFICER	M		S/M	
PARTICIPANT	BADGE#		1D #		POST ASSIGN #	#	POSITION		
RESPONDER			2864432		141454		FAC_D I/P		
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N/A NAME/LOCA	TION OF HOSP/ FACI	LITY N/A		TREATE	D AND RELEASED L	JSED FOR	RCE F	PROCESSE	DEVIDENCE
			SED TREAT	MENT 🗍 HOSPIT	TALIZED		✓ No	Yes	✓ No
Reason For Death		DECE.	ASED DATE			TYPE OF	FORCE:		

Is There ASCA Serious Injury No Yes

CDCR 837-B2 (RE	FACILITY					\neg	INCIDENT LOG	NUM	BER		
SVSP	CEN						SVSP-CEN	-07-	-06-0428		
			S'	TAFF (ENTIRE SHEET)					
NAME: LAST NELZENBACH		FIRST VIRGINIA		MI	TITLE REGISTERED	NUF	RSE	SEX F	ETHNICITY WHI	RDO'S M/TUES	5
PARTICIPANT RESPONDER		DGE #	ID # 2864	645		POS	ST ASSIGN #		POSITION ER-NURSE-RN	1	
✓ N/A DESCRIP	TION OF INDOM	IES, LOCATION AND	C, (COL.								
V N/A NAME/LOC/	ATION OF HOSE			PDE ATA			RELEASED USEL				D EVIDENCE
N/A NAME/ LOC	ATION OF HOSE	☐ RI	'A EFUSED T				ED	Yes	RCE F		EVIDENCE

PART C - STAI		INCIDENT LC			OG NUMBER			
CDCR 837-C (REV	Page	Page 1 of 2 SVS		SP-CEN	-07-06-0	428		
NAME: LAST		FIRS	T		MI	INCIDENT	DATE	INCIDENT TIME
WILLIAN		D.			NMI	6/29/		22:36
POST#	POSITION	YEARS OF SE		DATE OF RE		To an interpent		
140338 RD0's DUTY HO	FACILITY D SERGEANT DESCRIPTION OF CRIP	6 YF	R. 30 MO.	6/28	9/2007		FACILITY D BDG#2 B-112	
S/M 22:00-06	Fores or Violence At		empted battery on a F	Peace Office			1 Force or	
YOUR ROLE	WITNESSES (PREFACE (S) BEATTY	S-STAFF, V-VISITOR,	O-OTHER	INMATES (PF	REFACE	S-SUSPECT,	V-VICTIM,	W-WITNESSES
ORCE OBSERVED	FORCE USED BY YOU -	TYPE OF WEAPON	/ SHOTS FIRED / F	ORCE		СН	EMICAL A	AGENTS USED
BY YOU	- ☑ N/A		ARNING EFFECT:	LAUNCHE	R:	EFFECT#	CHE	MICAL/ TYPE:
IONE	FORCE:	☐ MINI 14		_ [] 37MM L8			_ N/A	
	EXPANDABLE BATON			- 40MM				
	PHYSICAL FORCE	SHOTGUN		40 MM			- □ cn - □ cs	
				HFWR	S			HER
								T I I I
EVIDENCE	EVIDENCE DESC	RIPTION	EVIDEN	CE DESCRIP	TION		ВІО	PPE
COLLECTED BY							HAZAR	D
Yes						1	Yes	Yes
✓ No							✓ No	✓ No
PORTING STAFF	DESCRIPTION OF	INJURY	LOCATION TE		F	LUIDEXPO	SURE	SCIF 3301/3067
INJURED			(HOSPITAL / C	TIMIC	-			COMPLETED
	†				1			<u> </u>
Yes					DESC	> :		Yes
☐ Yes ☑ No					DESC	> :		☐ Yes
☑ No ARRATIVE:	approximately 2236 hou	rs while perform	ning my duties a	s the Facil			nt I resr	☑ No
No NARRATIVE: On 06/28/07,at an audible alarm Inmate Martin Edevice (ligature) comply with his immediate actio	approximately 2236 houn in Delta-2. Upon my as 3-67269, (D-2-112) had as 1 in cell#112 soley occup lawful order to surrende on by activating his alarm her informed by Officer land.	nrival to the unitempted to cor bied by him. Off or the inmate mand, opening the fo	t I was informed mmit suicide by icer Beatty furth inufactured hang ood port and spr	by Correct untilizing a er stated the ging device aying Inma	ity "D' tional in inm nat Ini e (liga ate Ma	" Sergear Officer Description of the Serge Serge of the Serge Serge of the Serge of	D. Beatty ufacture tin's fail sed him his Sab	oonded to that d hanging ure to take are 5.0
ARRATIVE: On 06/28/07, at an audible alarm Inmate Martin Edevice (ligature) comply with his immediate actio (OC). I was furth grab his duty be his right hand as hand, his right hinstitutional Radto the food port to open cell #11	in in Delta-2. Upon my a 1-67269, (D-2-112) had a 2 in cell#112 soley occup lawful order to surrende on by activating his alarm her informed by Officer left which led him to close is the food port shut on it hand appeared to have be and be placed in restrain 2, upon opening the cell portion is continued on a program of the cell program of the c	arrival to the unitattempted to corbied by him. Offer the inmate man, opening the following the food port, or in the food on it. I call the CTC- Staff Ints (Hand Cuffs Ints (TC- Correction)	t I was informed mmit suicide by icer Beatty furth inufactured hanglood port and spropering the fooduring this procemate Martin in hed for the CTC-linstructed Office on al Officer R. S	by Correction tilizing a ser stated the ging device aying Inmand port, Inress Inmate is cell hold Nurse V. Wer Beatty to de Correction	ity "D' tional in inm nat Inr e (ligar ate Martir ing hi Velzer o have onal C	" Sergear Officer Date Martin With Martin At neceive s right hands and and elinmate Officer D. nate Martin ### Date Martin ####################################	D. Beatty ufacture rtin's fail sed him his Sab tempted d an inju and with d the EF Martin b Crawfor in	ponded to that dhanging ure to take ine 5.0 to his left RV via the pack up rd
ARRATIVE: On 06/28/07, at an audible alarm nmate Martin Edevice (ligature) comply with his mmediate action (OC). I was furtigrab his duty be nis right hand as nand, his right hostitutional Rado the food porto open cell #11	n in Delta-2. Upon my a i-67269, (D-2-112) had a i-67269, (D-2-112) had a in cell#112 soley occup lawful order to surrende on by activating his alarmher informed by Officer left which led him to close is the food port shut on it hand appeared to have be dio. Upon the arrival of the and be placed in restrain 2, upon opening the cell arrival of t	arrival to the unitattempted to corbied by him. Offer the inmate man, opening the following the food port, or in the food port, or in the control of the correction of the cor	t I was informed mmit suicide by icer Beatty furth inufactured hanglood port and sproperium to pening the food mate Martin in hed for the CTC-linstructed Office on al Officer R. S	by Correction tilizing a ser stated the ging device aying Inmade port, Inmate is cell hold Nurse V. Wer Beatty to be Correction anchez har Bado	ity "D' tional in inm nat Inr e (ligar ate Ma mate I Martir ing hi Velzer o have onal C ad inm	" Sergear Officer Date Martin With Martin At neceive s right hands and elinmate Officer D. nate Martin House Martin Marti	D. Beatty ufacture rtin's fail sed him his Sab tempted d an inju and with d the EF Martin b Crawfor in	oonded to that dhanging ure to to take ine 5.0 to ury to his left RV via the eack up rd
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CRIME / INCIDENCE REPORT 04067-VRV	V Document 1-3	Filed 08/26/2008 Page 24 o	f 24
PARTC1 - SUPPLEMENT CDCR 837-C1 (REV. 10/06)	Page 2 of 2	INCIDENT LOG NUMBER SVSP-CEN-07-06-0428	3
NAME LAST	FIRST		MI
WILLIAMS	D.		MMI
TYPE OF INFORMATION CONTINUATION OF REPORT	CLARIFICATION OF REPORT	ADDITIONAL INFORMATION	

kneel down on his knees so that he could be placed in leg restraints by Correctional Officer R. Sanchez of CTC. Inmate Martin was then escorted from his cell by Correctional Officer S. Sheffer and C/O R. Sanchez out side for "Decon". A CDC 7219 was performed per direction of the Emergency Room Nurse V. Welzenbach, ID 2864645. Inmate was transported to CTC via ERV for treatment and further evaluation. Upon arrival to CTC Inmate Martin was provided with additional" decon" by escorting staff.

•	CHECK IF NABRATIVE IS CONTINUED ON ADDITIONAL C1							
	SIGNATURE OF REPORTING STAFF	TITLE	PADO	Staff ID #	DATE			
- [CORRECTIONAL SERGEAN	NT 📜	2861588	6/30/2007			
\triangleleft	NAME AND TITLE OF REVIEWER PRINT / SIGN	NATURE) DATE RECEIVED	APPROVED		DATE			
1			Yes No	Yes No				

	ASE 3:08-CV-04067-VRVV D ENT REPORT	ocument 1-4	-IIEO WHO ARTOMENTO HOCORRI	H-
PART C - STA			INCIDENT L	OG NUMBER
CDCR 837-C (REV		Page	L of C SUSP-CF	N-07-06-0428
MAME LAST	7. 10/06)	FIRST		
BEATT	J	D	5 6/2	NT DATE INCIDENT TIME 2 236
POST#	POSITION YEAR	S OF SERVICE		CATION OF INCIDENT
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RDO's DUTY H	1001-4-1		<u> </u>	R SECTION / RULE
SIM ZZO-		,		5005 (c)
YOUR ROLE	WITNESSES IPREFACE S-STAFF, V-VI			CT, V-VICTIM, W-WITNESSES
PRIMARY	S-SGT. D. Williams			6-67269
RESPONDER	5- OFFICER SHAFFER		> /	0 01201
WITNESS	5-OFFILER SANGHER			
○ CAMERA				
SCRIBE				
FORCE USED BY YOU	WEADON		APON / SHOTS FIRED / FOR	
₩ WEAPON	WEAPON:	WARNING EFFECT	LAUNCHER: EFFEC 37MM	CHEWICAL TITE.
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BY YOU				S OTTLE C
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EVIDENCE	torn beositeer			
COLLECTED BY				No 🛣 No
⊠ Yes No	DESCRIPTION OF INJURY	LOCATION TRE	LINIC)	COMPLETED
REPORTING STAFF	i∰;N/A	I N/A	BODILY	₩ N/A
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Yes			OTHER	
₩ No				
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	oon from closing Aug			UDSTRUCTON THE
JOU MOINT D	SUL MON CLOSING AND	775 00070	1-1-101 (N 151)	
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Case 3:08-cv-04067-VRW	Document 1-4 File	d 08/26/2008 F RTMENT OF CORRECTION	Page 2 of 25
RIME / INCIDENT REPORT		THE TOTAL STATE OF THE STATE OF	IS AND REHABILITATION H
ARTC1 - SUPPLEMENT	Dana 7 of 7	INCIDENT LOG NUME	ER
OCR 837-C1 (REV. 10/06)	Page 2 of 7_		
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FOICH STAFF WITHOUT FURTHER			
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TORE OF REPORTING STAFF		BADGE#	DATE/29/07
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PART C - STA			Page	of 7	INCIDENT LO			
CDCR 837-C (RE	V. 10/06)			_ 01	SVSP-C	E-070	10-0428.	
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W VICTIM								
CAMERA								
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REPORTING STAFF	(m) 14/2		₩ N/A		BODILY	W/N/A	∰ Yes	
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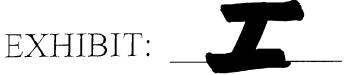
STATE OF CALFORNIA	Document 1-4 File	0.08/26/2008 Page 4 of 25 ARTMENT OF CORRECTIONS AND REHABILITATION \mathcal{H} – \mathcal{L}^{0}
CRIME / INCIDENT REPORT		H-10
- PARTC1 - SUPPLEMENT		INCIDENT LOG NUMBER
CDCR 837-C1 (REV. 10/06)	Page	SUSP-CE-07-06-0428
NAME LAST	FIRST	MI
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DISTRIBUTE OF THE STAFF		DATE /29/07
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1) Williams, Bot. (5)	20/27 No	■ Yes ■ No /n/29/07
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STATE OF CALIFORNIA CRIME / INCIDE	NTDEDORT				DEPAR	TMENT OF C	ORRECTI	ONS AND RE	HABILITATION	
PART C-STAFF						INCIE	DENT LO	G NUMBER	?	
CDCR 837-C (Rev.	07/05)		PAGE	OF		یا ک	130-0	- EN- 0	7-06-0428	
NAME: LAST		FIRST			MI	INCIDENT	DATE	INCIDEN	IT TIME	
SHEFF	EK	<u> </u>			T	06/28	107	223	L	
	POSITION YEARS OF SERVICE			ATE OF REPOR		LOCATION	OF INC	CIDENT		
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RDO's DUTY HO								N / RULE	□ N/A	
5/m 2200-	0600 ATTEMPTE									
YOUR ROLE	O-OTHER)	INMATES (F				/ICTIM, W-\	WITNESS)			
PRIMARY	(5) 55T. D. Will	Ams		(S) MARTI	N E	67269				
IN RESPONDER	(5) C/O.D. BEATT	4								
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BY YOU								HAZARD	T VEC	
☐ YES ☑ NO	N/A		YEI N/A				-] YES	☐ YES	
REPORTING				LOCATION TREATED					3301 / 3067	
STAFF INJURED	DESCRIPTION OF	INJUtRY		(HOSPITAL / CLINIC) FLUID EXPOSURE COMPLETE						
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] N/A		N/A			OTHER: _				
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Ον.	JUNE 28, 2007	AT ABOUT T	236 HOU	rs I r	ES 6	ONDED	70	ANA	UD186E	
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NAME AND TITLE OF	REVIEWER (PRINT / SIGNAT	TURE) DATE RECEI	/ .	_		ICATION ,		DATE /	00/-	
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Distribution Original Inc	cident Package Copy: Reportin	a Employee Copy: Revie	wing Supervisor					- 1	1	

CRIME / INCID	ase 3:08-cv-04067	-VRW Doci	ument 1	-4 F 	ileď 0					25 /
PART C - STA	FF REPORT		Da	ge	of /	/	CIDENT L			
CDCR 837-C (RE) NAME: LAST	V. 10/06)		RST	Ac(_ 01		USP-C			
	C 00					MI	NCIDE			NCIDENT TIM 2236
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Filed 08/26/2008 STATE OF CALIFORNIA 23:08-CV-04067-VRW Document 1-4 Page 8 of 25 MEDICAL REPORT OF INJURY H-24 OR UNUSUAL OCCURRENCE NAME OF INSTITUTION FACILITY/UNIT REASON FOR REPORT (circle) INJURY ON THE JOB INJURY UNUSUAL OCCURRENCE USE OF FORCE PRE AD/SEG ADMISSION THIS SECTION FOR NAME LAST FIRS7 CDC NUMBER HOUSING LOC. NEW HOUSING LOC INMATE ONLY E 67260 ASSIGNMENT/RDOs NAME RANK/CLASS LAST THIS SECTION FOR STAFF ONLY OCCUPATION DOB NAME LAST FIRST MIDDLE THIS SECTION FOR VISITOR ONLY HOME PHONE HOME ADDRESS CITY STATE ZIP DATE/TIME OF OCCURRENCE PLACE OF OCCURRENCE NAME OF WITNESS(ES) 6128/07 MODE OF ARRIVAL (circle) TIME SEEN ESCORTED BY TIME NOTIFIED LITTER WHEELCHAIR AMBULATORY ON SITE BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE IMSELF, THAT HE IM STATES HE WAS NOT TRYING TO HANG HIMSELF, THAT HE WAS SET UP. INJURY TO FINGERS OCCURED When HIS HA When His HAND WAS OUT THE FOUN PORT AND THE FOOD PORT WAS KICKED YES/NO INJURIES FOUND? Abrasion/Scratch Active Bleeding 2 3 Broken Bone Bruise/Discolored Area 4 5 Burn Dislocation 6 Dried Blood 7 Fresh Tattoo 8 Cut/Laceration/Slash 10 O.C. Spray Area 11 Pain 12 Protrusion 13 Puncture 14 Reddened Area Skin Flap 15 16 Swollen Area Other 17 18 19 (YES)NO O.C. SPRAY EXPOSURE? (YÉS/NO DECONTAMINATED? Self-decontamination (YES)NO instructions given? YES (NO Refused decontamination? Q 15 min. checks Staff issued exposure packet? YES// NO PHYSICIAN NOTIFIED/TIME RN NOTIFIED/TIME TIME/DISPOSITION BADGE# (PRINT AND SIGN) 4645 2330 rgency care record filed in UHR) (Medical data is to be included in progress note or PINK - Health and Safety / RTW Coordin (only work related injury) ORIGINAL - CUSTODY CANARY - Inmate/Employee DISTRIBUTION: CDCR 7219 (Rev. 11/05)

EXHIBIT I I THRO 7



RUSSE DANAROS ON 2426728RW D-2-124 SALIWAS VALLEY STATE PRISON P.O. BOOK \$050 SOLEDAD, CALIFORNIA 93960

TO. THE. M. EVANS, WARDEN

COMPLAINT REQUESTING INTER
VENTION BY YOU PERSONALLY FOR

INDEQUATE MEDILAL TREATMENT.

FROM SYST MEDICAL DOCTOR'S

DATED AUGUST 21/2007

DEAR MR. M. EVANS.

MY NAME IS RUSSELL MARTIN I WRITE THIS LETTER TO YOU REQUESTING YOUR IMMEDIATE ASSISTANCE IN RECEIVING ADEQUATE MEDICAL TREATMENT. AS YOU KNOW MY hand was stammed in The Food KUFF PORT BY GO D. BEATTY . WHEN HE KICKED IT. I did RECEIVE MEdICAL TREATMENT ON 6/28/07 AND ON 6/29/07 I had MY hands X-RAYED FOR POSSIBLE BROKEN BONES. Which ShowEd NEGATINE FOR BROKEN BONES. HOWEVER, MY hANDS IS STILL IN CHRONIC PAIN AND NUMBNESS . I KNOW SOMETHING IS WRONG WITH MY HANDS BELAUSE OF THE PAIN WHICH I BELIEVE THE LIGHMENTS IS dAMAGED IN MY RIGHT HAND FINDERS. I WEED AN MRI CONDUCTED TO DIAGNOSIS THE CORRECT INTURIES TO MY hAND'S. I ALSO INFORMED THE MEDICAL STAFF THAT THE IBUPROFEN I WAS GIVEN FOR PAIN MEDICATION WAS NOT WORKING AND I AM IN CONSTANT PAIN. ON 7/27/07 I PUTIN A MEDICAL REQUEST TO BE RE-SEEN BY THE HOLTOR. IT WAS REQUESTED FOR ME TO BE PINCED ON dUCTOR LINE ON 7/30/07 I STILL HAVEN'T BEEN SEEN BY A dUCTOR. LAN YOU PLEASE PICK UP THE PHONE AND ORDER ME AN IMMEDIATE MRI AND BETTER PAIN MEDICATION. I RESPECTFULLY REQUEST A RESPONSE FROM YOU IN This MATTER THANK YOU.

DATE AUGUST 21/2007

RESPECTABLY SUEMITTED

California Department of Corrections and Rehabilitation

MEMORANDUM

Salinas Valley State Prison

Date:

09/07/2007

To:

Martin, Russell CDC# E67269

Subject:

WARDENS CORRESPONDENCE CONTROL# 8141

Your received your correspondence of August 21, 2007 has been referred to me for review.

Your Unit Health Record has been reviewed and noted that you had an X-ray of your right and left hand on 06/29/2007 which showed no evidence of fractures. You have subsequently been evaluated by a Primary Care Provider on multiple occasions most recently on Tuesday August 28th 2007 and previously on August 21st, July 19th, July 9th and previously.

On the most recent visit it was noted that there had been decrease in swelling with improvement.

According to the Unit Health Record you have been appropriately evaluated and the correct attention has been provided to you for the conditions of your hands.

CHARLES D. LEE, M.D. Health Care Manager Salinas Valley State Prison

Cc: M.S. Evans, Warden

HEALTH CARE SERVICES REQUEST FORM

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		O BE COMPLETE					
		e charged to your trust acc					
If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.							
	MEDICAL M	IENTAL HEALTH	DENTAL				
NAME RUSSEJI MI	ARTIN	CDC NUMBER E-6	7269	D-2-124	,		
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STATE OF CALIFORNIA CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

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	PART I: TO BE COMPLETED BY THE PATIENT									
A fee of \$5.00 may be charged to your trust account for each health care visit.										
If you believe this is an urgent/emergent health care need, contact the correctional officer on duty. REQUEST FOR: MEDICAL MENTAL HEALTH DENTAL MEDICATION REFILL										
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RUSSELL MARTIN	CDC NOWIDER	E-67269			D	<u>-2-</u>	124			
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STATE OF CALIFORNIA CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

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Russell Martin

SUPERIOR COURT OF CALIFORNIA

JUN 2 6 2008

In re

COUNTY	OF	MO	NTER	EY	CONNIE MAZZEI	
					GIFFIN OF THE SWIFFFIOR O	QL

) Case No.: HC 6197 TVIII (CAS)

) ORDER

On Habeas Corpus.

On May 6, 2008, Petitioner Russell Martin filed a petition for writ of habeas corpus.

Petitioner is currently housed at Salinas Valley State Prison.

Petitioner contends he is receiving inadequate medical attention for injuries he sustained from a correctional officer ("CO"). Petitioner alleges that on June 28, 2007, he was deliberately assaulted by a CO who kicked a food/cuff port door in which Petitioner's hands were located, "bust[ing] [his] finger open on his right hand and severely injuring his left hand." Petitioner further alleges that x-rays revealed he did not suffer from a fracture, but he still experiences chronic pain and the 800mg of Ibruprofen he has been provided is inadequate. Petitioner believes he has suffered permanent injuries that substantially affect his daily activities. Petitioner wants medical staff to do an MRI of his hands, to check his ligaments for damage and to give him a correct diagnosis for his injuries.

Petitioner has exhausted administrative remedies. All levels of review denied relief. The Second Level Appeal Response dated Nov. 7, 2007, stated, among other things, that "[Petitioner] is being followed by the primary care provider in the clinic for his facility and his issues/concerns are being addressed as clinically appropriate as deemed by his provider.

Additionally, treatment and diagnostics have been ordered and a follow-up visit should be expected in less than 30 days." (Appeal Log No. SVSP-D-07-03531) The Director's Level

Petitioner filed a previous petition, *In re Martin*, HC5940, in which he alleged that he had been assaulted on June 28, 2007, by CO Beatty. On Feb 6, 2008, the court found the claim unsubstantiated because it arose from the same incident in which Petitioner had been found guilty of attempted battery on a peace officer (RVR S07-06-0033).

J

2008, concluded that Petitioner's claims that he was not receiving medical care were not supported by his medical records and medical staff familiar with his history.

The file also contains two documents that appear to be part of Petitioner's health records. First, a Sept. 7, 2007, memorandum to Petitioner from SVSP's Health Care Manager, Dr. Charles D. Lee, M.D., responding to Petitioner's Aug. 21, 2007, letter, stated Petitioner's X-ray showed no evidence of fracture, and that medical records showed Petitioner had been evaluated by a Primary Care Provider on Aug. 28th, Aug. 21st, July 19th, July 9th and previously. Second, a memorandum from Dr. Y-Lan Ho, M.D. for a June 29, 2007, visit confirm no fractures or dislocation were found in Petitioner's hands, and noted an impression of "mild osteoarthritis seen at the base of the first metacarpocarpal joint." There are no other documents reflecting any medical records for Petitioner beyond August of 2007.

Pursuant to Cal. Rules of Court. 4.551(b)(1)(B), the court directs the custodian of records to produce a copy of petitioner's medical records related to his instant claim. The records shall be filed and served on Petitioner within 30 days of the date of service of this order. Petitioner may file a reply to the informal response with 15 days of the date of the response on petitioner. Pursuant to Cal. Code of Civil Procedure §1013(a), the time for service of the response and reply shall be extended by 5 calendar days.

IT IS SO ORDERED.

Dated: 6/26/63



Hon. Lydia Villarreal

Judge of the Superior Court

EXHIBIT 5- 1 THRO 8

RUSSELL MARTIN E-67269 D-8-203 SALINAS VALLEY STATE PRISON P.O. BOX 1050 SOLEDING CALIFORNIA 93960

TO: VINCENT SCHUMACKER

SENIOR SPECIAL AGENT

NOIL OLD PLACERVILLE ROAD, SUITE 200

SACRAMENTO, LALIFORNIA 95827

ON 4/20/2007 LIEUTENANT ("LT.") C. WARFIELD, CAME TO HEAR MY RYR LOG NO: \$07-06-0033" FOR ATTEMPTED BATTERY ON A PEACE OFFICER WUSE OF FORCE (PEPPER SPRAY). DURING THE HEARING I POINTED OUT ALL THE INCONSTANCIES IN YO D. BEATTY, WRITTEN REPORT. I Showed him That Yo BEA -TIY'S, HAS CHANGED HIS STATEMENT WHEN INTERVIEWED BY MY INVESTIGATIVE EMPLOYEE . I ASKED LT. C. WARFIELD, TO EXAMINE THE PIECE OF TORN SHEET TO BENTLY DROPED ON MY CELL FLOOR IT I TOLD him if it had AND BLOOD OR PEPPER SPRAY ON IT I WILL PLEAD GUILTY TO THE RVR NO QUESTIONS ASKED " LT. WARFIELD, POSTPONED THE HEARING UNTIL 9/27/07. SO HE CAN INVES -TIGHTE THE FACTS I POINTED OUT TO him AND GET THE OFFICERS ON STAND BY FOR QUESTING FOR 27 Th. UN 9/26/07 LT. C. WARFIELD, CALLED ME INTO THE OFFICE IN D-8 AND TOLD ME TYERBATIM I LOOKED INTO EVERYTHING YOU ASKED ME . FIRST OFF, I EXAMINED THE TORN SHEET. I had AN ISU OFFICER OPEN EVIDENCE LOCKER # 9. YOU WAS RIGHT THERE WAS NOTHING ON IT, NO BLOOD NO PEPPER SPRAY NO STAINS . (" I ASKED THE ISU OFFICER IF "TO BEATTY PERPER SPRAYED YOU ON 6/28/07. WOULD THE SMELL OF O.C. SPRAY STILL BE ON THE SHEET? HE SAID YES SIR). (" I ASKED him IF YO BEATTY, KICKED THE FOODPORT DOOR SMASHING YOUR FINGERS CAUSING THEM TO BLEED WOULDN'T THE SHEET HAVE BLOOD ON IT FROM THE INMATE REMOVING IT FROM HIS NECK? HE SAID YES SIR". I ASKED him IF YO BENTLY USED A CAN OF 5.0. PEPPER SPRAY, AND SPRAYED YOU AROUND THE FACIAL AREA WITH THE SHEET AROUND YOUR NECK WOULD IT STALL HAVE ORANGE discoluRATION ON IT? HE SAID ABSOLUTELY!) LT. WARFIELD, TOLD ME THE BODY OF THE REPO-RT do NOT SUPPORT THE OFFICER ACTIONS. NOW HIS STATEMENT TO THE INVESTIGATIVE EMPLOYEE IS INCONSTANT WITH his INITIAL REPORT. I do I BELIEVE THE OFFICER KICKED THE FOODPORT DOOR PEPPER SPRANED YOU LEFT AND CAME BACK AND DROPED THE TORN SHEET ON THE FLOOR YES BELAUSE THE EVIDENCE SUPPORTS THAT I do I BELIEVE YOU had YOUR CELL dOOR WINDOWS BOARDED UP OBSTRUCTING THE OFFICER VIEW INTO THE CELL. EVERYTHING YOU TOLD ME I CHECKED OUT HAS BEEN THE TRUTH.) do I BELIEVE THE OFFICER LIED IN HIS REPORT YES. I

RESPECTIONLY SUBMITTED

LODP/8/01 7145

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E SHING TRENTED FOR his INJURIES ?

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LLOSING THE DOOR REMINING OPEN, AND THE INMATE WAS STILL BLOCKING THE FOOD MORT. I SPR -

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3. did mai martin, appear to dispend behavior that was relable, unusual, or unch -

BONGAED UP AND HE WAS REMOVING THE COVERING AS YOU WAS STANDING THERE?

BONGAED UP AND HE WAS REMOVING THE COVERING AS YOU WAS STANDING THERE?

DOOR WITH HIS FEET ?

T. IS IT A VIOLATION OF BREEMTIONAL MANUAL PROLEGURE * 29" 29.5.8.1 FOR AN OFFILER TO TENER TO STREET GOOD LEVERT GOOK ?

RES # 29.) ?

Les # 29.) ?

5. ARE YOU FAMILIAR WITH THE POLICY'S AND PROCEDURES OF COPERATION BL MANDAL PROCEDU

EVIDENCE FOR POSSIBLE PROSECUTION?

- 4. LINS IT YOU DUTY TO RESPOND TO THE INCIDENT ON 6/28/2007 SINCE IT WAS AFTER 10: 30 PM?

POLICIES AND PRICED ALLEGE HE ASSAULTED AN INMATE IN SELF DEFENSE IS IT THE INSCITUTION SCENE AND PARCED TO THE INSCITUTION

I. did you respond to the plarm on bileizoot at 2.2-112?

QUESTIONS AND BEAMISSIONS FOR LIEUTENANT P. ROQUE, FIRST WATCH COMMINISTER

LO. ARE YOUR ANSWERS TO THESE QUESTIONS TRUE AND EDRRECT UNDER PENNETY OF PERSURY ?

ENT AS WELL!

LA PARE YOU DWATE CONTROL BOOTH OFFICER D. CRAWFORD, ALLEBED IN his REPORT he didn'T

18. WAS THE WATCH COMMANDER LIEUTENANT P. ROBUE, SURFIEE TO RESPOND TO THE INCID.

IT. A'S YOU TAKE Photo BRANKS OF THE ALLEGED NOOSE AND IF SO WAST DAY !

OWED BY YOU SINCE YOU WITS THE RESPONDING SUREAVISOR ?

-16, IF YOUR ANSWERTO QUESTION THE IS YOU WAY WASH'T THEEK POLICIES AND PROCEDURES FOLL

DULSTIONS AND REMISSIBNS LONTINUE FOR SET D. WILLIAMS

12. did you take photobeanhs of the allebed Noose?

AS EVIDENCE FOR POSSIBLE PROSELUTION ?

POLICIES AND PROCEDURES TO MOTO GRAIN OR VIDES THE CRIME SCENE AND INMATE.

11. IF A PEACE OFFICER ALLEGE HE ASSAULTED AN INMATE IN SELF DEFENSE IS IT THE INSTITUTIONS

PS YOU ENTER THE CELL?

9. IF YOUR MISWER TO QUESTION #8 IS YES WHY didN'T YOU STATE THAT IN YOUR REPORT?

ATION, OR BED TO CORROBORATE 'TO BERATY REPORT OF ATTEMPTED SUICIDIE?

B. did YOU OBSERVE AND SKEETS OR STRINGS KANDING FROM THE (LEILING LIGHT OR VENTIL

ACREMISTIC !

THEN YOU RESPONDED TO D-2-112 DID MAINANTIN, MOREIR TO BE UNNALE TO SEE, OR CHOKING

THEM THE EFFECTS OF THE PERPER SPRAY?

6. did martin, appenr to display behavior that was bizarre, unusual, or unich -

- H. IF YOUR ANSWER TO QUESTION #3 IS YES, did YOU CONTRET SET WILLIAMS, OR WATCh COM -

ABOUT WART HAPPENED TO KIM ON GILBLARTELY ASSAULTED BY "NO BEATY, FOR NO REASON?

I. WAS YOU PRESENT IN THE ER WHEN MR. MARTIN, WAS TREATED FOR hIS INSURIES ?

QUESTIONS AND ADMISSIONS FOR RORRECTIONAL OFFICER R.SANCKEZ

AS EVIDENCE FOR PRESSIBLE PROSECUTION?

- THE PERCE OFFICER ALLEGE HE RESPONTED BY INMATE IN SELF DEFENSE IS IT THE INSTITUTE SOLVE FIND INMATE

END AS YOU ENTER THE CELL

TI did you observe that ma, martin, had not mathess Rolled upon the Top bunk at the

ILATION OR BED IN LELL 112?

LASTICAN OR BED IN LELL 112?

LASTICAN OUR TREPERTY OF IS YES, WAY DIDN'T STROTE IT IN YOUR REPORT ?

5. did you observe any sheets or strings hanbing from the ceiling libbt or yent-

Choking them the effects of the reprek spray?

QUESTIONS CONTINUE FOR "10 5. SAEFFER

9 10 5

8740-90-L0-N37-8585 : UN LYCHOLL YEROYL NO: : 00 40 : 20 1-00 907

PER JURY?

F. did You Admit your ENTIRE REPORT IS TRUE, CORRECT, AND ACCURATE UNDER PENALTY OF

DE PREVENTION?)

1. ARE YOU TRAINED ON THE POLICIES AND PROCEDURES COPERATIONAL MANUAL PROCEDURE # 27 SURCI-

QUESTIONS AND EMISSIONS FOR CORRECTIONAL OFFICER . BEATTY.

13. IS YOUR STRIEMENT TO THESE QUESTIONS TRUE AND CORRECT UNDER PENRITY OF PERTURY?

AS EVIDENCE FOR POSSIBLE PROSECUTION !

12, IF A PEACE OFFICER ALLEGE HE ASSMUTTED AN INMATE IN SELF DEFENSE IS IT THE INSTITUTIONS
POLICIES AND PROCEDURES TO PASTO GRAPH OR VIDEO TAPE THE CRIME SCENE AND INMATE

II. HAVE MR. MARTÍN EVER BOARDED UP HIS CELL WINDOWS THAT YOU HAVE PERSONAL KNOWLE -

RESPONDING STRFF INTO The Building ?

10. IF YOU WOULD KAVE OPENED THE BOOK FOR RESPONDING STAFF WITH THE BOX RIGHT BY THE

TRANSPIRE

; 10 3gp

9. do you see this as "ODD" FOR FLOOR STARF TO OPEN A FOOD CUTF PORT DOOP, AND THEN FLOOM THE TROOM THE FOOD TOP BUNK RUN AND REACH BOTH ARMS THROUGH THE FOOD CURE PORT DOOR IN AN ATTE - THOM THE FOOD TOP BUNK RUN AND YOUR BOTH ARMS THROUGH THE FOOD CURE FORT DOOR IN AN ATTE -

8. do you Admit you did Not Follow This PROCEDURE LORRECTLY?

Ed TO The LOCATION IMMEdiATELY

- TA OPERNTIONAL MANUAL PROCECURE # 27) STATES "THE CUT COWN KIT SHALL BE TRANSPORT -

6. IF YOUR ANSWER TO QUESTION # 5 IS YES, WAY didn'T YOU PROVIDE A CUT DOWN KIT?

S. IF YOUR ANSWER TO QUESTION # 4 IS YES, WAS YOU NOTIFIED BY \$ LOOR STAFF ?

LUT DOWN KIT WHEN A BATEMPTED SUILIDE IS IN PROBRESS?

his albam?

3. DID BILBILOOT DID MR. MARTIN, HAVE HIS CELL BORRDED UP BLOCKING VIEW INTO THE CELL?

SUICIDE PREVENTION?

A. ARE YOU TRAINED ON THE POLICIES AND PROCEDURES TORERATIONAL MANUAL PROLEDURES

QUESTIONS AND OMISSIONS FOR CORRECTIONAL OFFICER D. CRALIFORD.

0 10 0

BIBLUMI

INVESTIBATIVE EMPLOYEE

孔形氏

AS EVIDENCE FOR POSSIBLE PROSECUTION ?

DOLICIES AND PROCEDURES TO PROTOBRAPH OR VIDED TAPE THE CRIME SCENE AND INMATE

17, WAS MA, MARTIN, BEKANING BIZARAE, UNUSUAL, OR ON CHARACTERISTIC?
19, WAEN did MA, MARTIN, REMOVE THE ALLEGED NOOSE FROM AROUND his NECK BEFORE YOU PERPER SING MARTING REMOVE THE ?

16. it your miswer to question * Is is tes, Are you award that was a mulation of the polici - es and macedares of (onerational manial procedures = 19.5.8.1?)

15, You stated in Your Report mr. martin, had obstructed the foodleaff Port door and You Report spraked martin, in the Face area is thad lockeet?

13. IF YOUR ANSWER TO QUESTION # 12 IS YES, WAY didNT HOU STATE THAT IN YOUR REPORT.

- 14. IF MR. MARTIN "NEVER" MARKE AN ATTEMPT TO TIE THE ALLEGER NOOSE TO THE LELLING

LIGHT, OR VENTILATION, OR BEDINA did YOU OPEN THE FOODHUFF YORT DOOR?

THE CEILING LIGHT OR VENTILATION?

12. IF YOUR ANSWER TO QUESTION * II IS WO, did MR. MARTIN, MAKE AU ATEMOT TO TIE THE NOOSE.

MOUND HIS NECK TO THE LELLING LIGHT OR VENTILATION OR BED ?)

10. ARE STAFF ALLOWED TO KICK THE FOOD ICUFF RORT DOOKS WITH THERE BUNK AND SET ON THE TOP BUNK AND SET ON THE TOP

9. ARE NOU MUNKE THAT WINS IN VIOLATION OF THE POLICIES AND PROCEDURES MANUAL # 19 ?

IN MATES REACH TO QUESTION # 7 IS YES, WAS did YOU KICK THE FOOR LUFF PERT DOOR?

T. YOU STATED IN YOUR REPORT INMATE MARTIN, ATTEMPTED TO GRAB YOU THROUGH THE FOODILL VERDING OF SAFETY OUT OF THE

6. IF YOUR MUSEURE TO QUESTION TO IS YES, did HE PROVIDE YOU WITH IN COT DOWN KIT?

5. LIA YOU NOTIFY LONTROL BOOTH OFFICER CRIMFORD, IMMEDIATELY REQUESTING A CUT DOWN

BONESES UP BLOCKING VIEW INTO THE CELL ?

4. BURGES UP BLOCKING VIEW INTO THE CELL D-2-112 Sid MA. MARTIN, HAVE his CELL WINDOWS

QUESTIONS AND OMISSIONS CONTINUE FOR The D. BEATH. FROM 5 OF 6

EXHIBIT K 1 THRO 3

EXHIBIT: __

MEMORANDUM



Date: November 28, 2007

To:

N. Walker

Watch Commander

Subject: REISSUE/REHEAR RULES VIOLATION REPORT (RVR) LOG # S07-06-0033
ATTEMPTED BATTERY ON A PEACE OFFICER W/USE OF O.C.

Per CCR 3312(b)(1) the Chief Disciplinary Officer (CDO) may order a different disciplinary action, order a different method of discipline, dismiss a charge, order a rehearing of the charge, or combine any of these disciplinary actions. As the Chief Disciplinary Officer I am ordering the following:

Reissue and Rehear the above RVR based on the fact:

Mental Health Assessment was incomplete by clinician.

Please ensure a different hearing Lieutenant is assigned to ensure that due process requirements are adhered to during the rehearing process.

If you have any questions you may contact me at extension 5535.

L. TREXLER

Correctional Administrator - Central Services

Salinas Valley State Prison

Original to be filed w/115

cc:

C-file Inmate

Register of Institution Violations

Case 3:08-cy-04067-VRW Docume	nt 1-5 Filed 08/26/2008 Page 3 of 21 STODY SUPERVISOR K-2
A Rules Violation Report (RVR) CDC-115 has been Health Assessment.	written on the following inmate, who requires a Mental
Inmate Name: MARTIN	CDC Number: E-67269
RVR Log Number: 507-06-0033 Date of	Violation: 06/28/07 Housing: 12-214
Specific Act Charged: ATTEMPTED BATTERY ON THATE OF	TICER WITH USE OF O.C. 3 2 1 24
The inmate's current Mental Health Level of Care is:	(check one)
X NOT IN MHSDS PROGRAM* CCCMS	* BOP MHCB DMH
"CCCMS and Non-MHSDS Program participants will be or uncharacteristic" behavior.	referred for a Mental Health Assessment for "Bizarre, unusual
Sent to Mental Health: 7/9/07 By:	90 CRayES / DayES Print Name Signature
Return this form to: WATCH CEFICE By: /24	(CCCMS and Non-MHSDS, 5 working days; EOP/MHCB/DMH, 15 calendar days)
	LTH CLINICIAN us, for responses (Inmate informed of non-confidentiality).
experience difficulty in understanding the discip hearing that would indicate the need for the assign [] Yes No Explain "yes" response.	mental health factors that would cause the inmate to dinary process and representing his/her interests in the ment of a Staff Assistant? Sonse: The Recally of the Assistant of the second of the sec
	appear to contribute to the behavior that led to the RVR?
3. If the inmate is found guilty of the offense, are the should consider in assessing the penalty? [] Y	re any mental health factors that the hearing officer es No [] Explain "yes" response:
Institution: SIS Clinician: Hone, W Received by (custody staff) Name: Distribution: Original: Central File with adjudicated CDC-115, First copy. Uni	Signature: D. Janus M Date: 7/24/07 Signature: Date:
RULES VIOLATION REPORT: MENTAL HEALTH ASSESSMENT CDC-115X (11/02)	Inmate Name: (Last, First, MI)
ERTERED JUL 2 0 2007	CDC Number:
STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS	-DOB:

L

Case 3:08-cv-04067-VRW Document 1-5 Filed 08/26/2008 m Inmite GP REVIEWING CUSTODY SUPERVISOR A Rules Violation Report (RVR) CDC-115 has been written on the following inmate, who requires a Mental Health Assessment. Inmate Name: CDC Number: E-67269 RVR Log Number: S07-11-0022P Date of Violation: 11/28/07 Housing: A ATTEMPTED BATTERY ON A PEACE OFFICER W/USE OF O.C. Specific Act Charged: The inmate's current Mental Health Level of Care is: (check one) **MHCB** NOT IN MHSDS PROGRAM* EOP DMH *CCCMS and Non-MHSDS Program participants will be referred for a Mental Health Assessment for "Bizarre, unusual or uncharacteristic" behavior. Sent to Mental Health: 2-12-07 (CCCMS and Non-MHSDS, 5 working days; EOP/MHCB/DMH, 15 calendar days) Return this form to: WATCH OFFICE MENTAL HEALTH CLINICIAN Use "lay terms" for responses Conducted non-confidential interview: (2/1) (Inmate informed of non-confidentiality). CCCMS(NON-MHS)DS only. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for the assignment of a Staff Assistant? Explain "yes" response: Sim wooded the servork was a duffication of Julious loal vinci Entiron to it where include" Unicated In appears capable of understanding process. University of the inmate's mental disorder appear to contribute to the behavior that led to the RVR? Explain "yes" response: Im Yes a mental disorder non does he imperent 3. If the inmate is found guilty of the offense, are there any mental health factors that the hearing officer No ✓ Explain "yes" response: should consider in assessing the penalty? [] Yes Jave I'm not in 1714SD Institution: Clinician: R Date: Received by (custody staff) Name: Signature:

RULES VIOLATION REPORT: MENTAL HEALTH ASSESSMENT ED DEC 1 2 2007

Inmate Name: MARTIN

(Last, First, MI)

CDC Number: 67369

ENTERED DEC 1 7 2007 DOB:

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

Distribution: Original: Central File with adjudicated CDC-115; First copy: Unit Health Record; Second copy: Inmate

EXHIBIT L 1 Theo 2

EXHIBIT: ___

L-1

DELLARATION

I Lighted Rodny was Housed in FACILITY D-2-CELL 114. ON 6/28/2007 I WITNESSED INMATE RUSSELL MARTIN E-67269 D-2-CELL 112 BEING ASSAULTED BY LORRELTIONAL DEFILER D. BEATTY. AT APPROXIMATELY 10: 40 PM. OFFICER D. BEATTY OPENED MARTIN'S FOODPORT DOOR THEN KICKED IT SMASHING MARTIN'S HANDS IN THE FOODPORT DOOR THEN PEPPER SPRAYED MARTIN AND SLAMMED THE FOODPORT DOOR SHUT LEAVE AND COME BACK APPROXIMA -TELY ONE OR TWO MINUTES LATER OPEN UP MARTIN'S FOODPORT GOOR AGAIN, AND START YELLING STOP TRYING TO KILL YOURSELF, AND PUSH HIS ALARM. ON 7/11/2007 I WAS INTERVIEWED BY MR, VINCENT SCHUMMCKER, AND ANOTHER AGENT OF THE OFFICE OF INTERNAL AFFAIRS THAT INTERVIEW WAS TAPE RECORDED WITH MY CONSENT, AND I PERSONALLY INFORMED . THEM ABOUT MR. MARTIN BEING ASSAULTED BY OFFICER D. BEATTY. I CAN COMPETENTLY TESTIFY UNDER OATH IN A COURT OF LAW IF CALLED AS A WITNESS.

I DECLARE UNDER PENALTY OF PERTURY THAT THE FORBOING IS TRUE AND CORRECT.

DATEd 9/6/2007

RESPECTFULLY SURMITTED Romaney H-59277 DECLARATION OF WITNESS

DECLARATION

BAHENA WAS HOUSED IN FACILITY D-2-CELL 115 T K-74753 ON 6/28/2007 I WITNESSED INMATE MAKTIN E-67269 D-2-112 BEING ASSAULTED BY CORRECTIONIAL OFFICER D. BEATTY. AT APPROXIMATELY 10: 40 PM. OFFICER D. BEATTY, OPENED MARTIN'S FOODPORT DOOR THEN KICKED IT SMASHING MARTIN'S HANDS IN THE FOODPORT DOOR . THEN PEPPER SPRAY-ED MARTIN AND SLAMMED THE FOODPORT DOOR SHUT LEAVE, AND COME BACK APPROXIMATELY ONE OR TWO MINUTES LATER OPEN UP MARTIN'S FOODPORT DOOR AGAIN, AND START YELLING STOP TRYING TO KILL YOURSELF AND PUSH his ALARM. UN 7/11/2007 I WAS INTERVIEWED BY MR. VINCENT SCHUMACKER, AND ANOTHER AGENT OF THE OFFICE OF INTERNAL AFFAIRS THAT INTERVIEW WAS TAPE RECORDED WITH MY CONSENT, AND I PERSONALLY INFORMED THEM ABOUT MR. MARTIN BEING ASSAULTED BY OFFICER D. BEATTY. I CAN COMPETENTLY TESTIFY UNDER DATH IN A COURT OF LAW IF CALLED AS A WITNESS .

I DECLARE UNDER PENALTY OF PERSURY THAT THE FORGOING IS TRUE AND LORRECT.

DATE & 9/6/2007

EXHIBIT 'M" I THRO 11

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CTATE	OF CALIFORNIA		

STATE OF CALIFORNIA	DEL ANTIGER OF COMM	LUTION
RULES VIOLATION REPORT		,

CDC NUMBER	INMATE'S NAME	RELEASE/BOARD	DATE INST.	HOUSING NO.	LOG NO.
1-672969	TOTAL		5 3 7 7	* (1-11-11)	777-11-4
VIOLATED RULE NO(S).	SPECIFIC ACTS	و د دان د د د د د د د د د د د د د د د د د	LOCATION	DATE	TIME
027 T30,5/ch	क्षा के क्षा क्षा क्षा क्षा क्षा क्षा क्षा क्षा	alterior and the	12-117	11/25/07	11177 181.

CIRCUMSTANCES

This RVR Log /S07-06-7003, is being ordered Re-issued / Re-Yeard per Memorardum authorized by L. Townier, Chief Disciplinary Officer, dated 11/28/07.

On Translay, June 29, 2017, I was worden 19 Mich 49, at shout 1277 bourn, I continted a prescrip creat. turing the assuring dredt I approached seld 11%, which is shiely occupied by Impute 2015, 1-77269, when I bown tribute the cell virgo. I meety limits being place a cione of the bet seen about his term. I have obline to Innote (NYTY) to seeme the noise. The innote did not comply and climbed up to the too bush and cut to the too bush facing the adjacent wall. I continued to give orders to stor and remove the modes, but the impate 320 not comply. tue to the timest of the immate margine himself, I estimate my measural plane, and overall the foodcost in an attempt to somey the inverse with my Sabre S.C. As soon as the inchront was opened the inverte home, towards the inciport and

(Continued On Part C)

larate Maria is not a participant in the Mental Health Services Celivary System.

	REPORTING EMPLOYEE (Typed Name and Signature)	The state of the s			DATE	,	ASSIGNMENT		RDO'S	
	▶ 7. Neatt	y, Correctio	onel-offi	cer		12	11167	of Fir. o	for. Et	£. /: ·	
	REVIEWING SUPERVISOR	R'S SIGNATURE		DATE		☐ INMAT	E SEGREGATED PEND	ING HEARING	<u>-</u>		
·	<u>► 111.7776</u>	100 2 1/1/Ta	/	11:12	67	DATE		LOC			
	CLASSIFIED	OFFENSE'DIVISION:	DATE	CLASSIFIED	BY (Typed I	Name and Sig	gnature)	العربي المعترف	HEARING REF	ERRED TO	
. •	ADMINISTRATIVE SERIOUS	<u> 41</u>	14/12/07	▶ ∠+	Alex	plan	for part	Salar	□ но □	ѕно [SC [] F
			C	OPIES GIVE			RE HEARING				
	☑ CDC 115	BY: (STAFF'S SIGNATURE)			DATE	TIME	TITLE OF SUPPLEME	ENT			
	30 7-11- 00025	•									
	INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)			DATE	TIME	BY: (STAFF'S SIGNA	TURE)		DATE	TIME
V	<u></u>	>					>				
	HEARING										

REFERRED TO CLASSIFICATION BPT/NAEA ACTION BY: (TYPED NAME) SIGNATURE DATE TIME DATE REVIEWED BY: (SIGNATURE) DATE CHIEF DISCIPLINARY OFFICER'S SIGNATURE DATE TIME BY: (STAFF'S SIGNATURE)

COPY OF CDC 115 GIVEN INMATE AFTER HEARING

Case 3:08-cv-04067-VRW Document 1-5 Filed 08/26/2008 Page 10 of 21

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RH	LES	VIOI	ATION	REPORT	- PART	C

PAGE OF

NOLES VIOLATION	INEL OIL TAIL O						
CDC NUMBER	INMATE'S NAME		LOG NUMBER		INSTITUTION		TODAY'S DATE
T-67069	C. C. T. T. T. C.		007-11-	11.12.2			11 (11/07)
SUPPLEMENTAL	CONTINUATION OF:	115 CIRCUMST	ANCES H	EARING [IE REPORT	OTHER	R

maded with more out in an attenut to pass by bolt. I quidily topon care on observing for forfur threat by kidding it with my foot. The the footpart was albaing, the farm element on the insaty/a mani belone he challretrieve it burn into the coll. To involve here pretronted the Control for the clarity are to foot received then, and the I'm was still blooking the footbast. I sprayed and I'm around the ince error and accept the ineste to head own, the impair counties and I use side to usome the foreignt. Then the self-off active I amigned the inmits to back-up to the footpart and sabalt to backards. Innote thems complet. Seasont Millians instructed the curred booth officer to open the forc. Then the cell four was order the invale was experted out of this cell by Officer Chaffer and Officer Centres. The invote was evidented by medical staff without further inclusion. The mode was delivered as evidence and placed in locker ".

D. Mastry, Correctionel Wilder

	SIGNATURE OF WRITER		DATE SIGNED
COPY OF CDC 115-C GIVEN TO INMATE	GIVEN BY: (Staff's Signature)	DATE SIGNED	TIME SIGNED

STATE OF CALIFORNIA

CDC NUMBER						_			
	INMATE'S NAME			RULE NO(S).	,	DATE	INSTITUTION	LOG NO.	
F=67265	MFLLLAM			<u>"53005(c) : </u>		51/28/07	CVSP	S17-11-0	1022F
REFERRAL FOR FELC	ONY PROSECUTION IS	LIKELY IN THIS	NCIDENT	¥ YES		NO			
		P0	STPONEM	ENT OF DISCIPL		IEARING		. Toate	
	EST my hearing be post at for prosecution.	ooned pending		INMATE'S SIGNATUR		w		DATE	7/07
<u></u>	earing be postponed pe	ading outcome		INMATE'S SIGNATUR		2-2-		DATE	701
of referral for pro-		iding outcome		>					
ATE NOTICE OF OUTCO	DME RECEIVED	DISPOSITION					- · · · · · · · · · · · · · · · · · · ·		
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				STAFF ASSISTA	NT				
TAFF ASSISTANT				INMATE'S SIGNATUR				DATE	/
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REPORTING EMPL		ASSISTANT		INVESTIGATIVE EI			eff Witnesses ((See Paris 17)	NONE
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		-							
VESTIGATIVE REPOR	T: Investigative Employ	ees must intervie	ew the inmat	e charged, the repo	ting empl	oyee, and any oth	ners who have signi	ficant information, do	cumentin
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RULES VIOLATION	REPORT - PART C	*L*	DEPARTM	ENT OF CORRECTION PAGEOF
CDC NUMBER	INMATE'S NAME	LOG NUMBER	INSTITUTION	TODAY'S DATE
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PORTURE FURL ON THE RESERVE TO THE R	SIMITMENT: On 17/13/07, I intervie acred Immate "artin's cell, he was a gave him orders to stop and he did n and masched with both anns out through t close and cambit Immate Martin's	itting on the top bud not. I pressed my ala whoth-food port and	t, I say Inhete vertice whear occues the fort tries to occue my belt.	n Mading a Hoos port, invade the Thadkel un am
responded to an all rging davice. 0/ rtin. 0/0 reatty of a (cottort. While	MINE: On 12/13/07, I interviewed Commann in D2 and was informed by C/O Past Teathy stated Innote Martin would not the footboot was one this took place Innote Martin's place of the controls of the controls who controls and Innote Martin was	tty that Innati Martin not comply to orders an enoi, Innate Martin tri oht hand was causht or	attented to count sub I be opened the foodpor ed to goal his duty ball I the foodport. I saw	cide by an innate t to sommy Innate t, then he close?
westigativa Fmoloye	9	ieutenent Roque ergeent Battles ergeent Williams fficer Sheffer		

Time (17 /0= Lines C. Peyer, Correctional Officer SIGNATURE OF WRITER DATE SIGNED USG 11/19 13/201 DATE SIGNED GIVEN BY: (Staff's Signature) COPY OF CDC 115-C GIVEN TO INMATE

Officer Crawform Offficer Sanchez RV V. Velzerbech

William Information in Confidential Reports: No.

STATE OF CALIFORNIA	
RULES VIOLATION REPORT	

RULES VIOLA	TION REPOR	<u> </u>				
CDC NUMBER F-67269	INMATE'S NAME		RELEASE/BOARD E		HOUSING NO. DB-1150	LOG NO. 307-11-00
VIOLATED RULE NO(S).		PEACE OPPICES WATER		LOCATION D2-112	11/28/07	ZZ36 MRC.
CIRCUMSTANCES						

This RVR Log #507-06-0033, is being ordered Re-issued / Ne-Heard per Membrandium authored by L. Thewler, Onief Disciplinary Officer, dated 11/28/07.

On Thursday, June 28, 2007, I was vorting D2 Floor /7, at about 2236 hours, I combusted a security check. Ouring the security check I approached cell 112, which is solely compact by Invete MARIEN, 6-57259, when I looked through the cell window, I observed Immate MARTIN place a piece of torn bet sheet around his neck. I gave orders to Investe MARITA to remove the noise. The investe did not comply and climbed up to the top bunk and sat on the top bunk. facing the adjacent wall. I continued to give orders to stop and remove the mose, but the immate did not comply. Due to the threat of the invete hanging himself, I activated my personal alarm, and opened the foodport in an attempt to spray the immate with my Sabre 5.0. As soon as the foodport was opened the immate jumped towards the foodport and

(Continued On Part C)

Imate MARIIN	19	ושנו	ξ.	participant	ın	the	MEITER!	HEALTH	Services	Delivery System	II.

	REPORTING EMPLOYEE	Typed Name and Signature)	The state of the s			DATE	1 /	ASSIGNMENT		RDO'S	
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	REVIEWING SUPERVISOR		. As t	DATE		☐ INMAT	E SEGREGATED PEN	DING HEARING			
,	· M. TELL	EZ MITA	A	12-12-	07	DATE			. LOC		
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			CC	PIES GIVE	N INMA	TE BEFOR	RE HEARING				
	① CDC 115	BY: (STAFF'S SIGNATURE)			DATE 2/	TIME	TITLE OF SUPPLEM	MENT & PUNE	Mr. PY IE MAK.		
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	INCIDENT REPORT	BY: (STAFF'S SIGNATURE)			DATE	TIME	BY (STAFFISISIGN	IATURE)	erry Contractes	DATE/7/-0/	TIMES 15
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	HEARING PIGE: NOT GILL	IV.								(91-7-081	40 1745

Firdings: Invete MARKIN was foun' CULLIN of CTP CROS(c), specifically "Attempted Pattery On A Peace Officer W/Use Of O.C." a Division "A1" offerse. This finding is based on the preparatement of evidence presented at the hearing which does substantiate the charge. The evidence mesented at the hearing included: SEE CDC-115-C.

Disposition: Imate MATURN assessed 00 days forfeiture of credits in accordance with a Division "A1" offense due to the loss of time constraints during the original adjudication of this 807 (907-96-9033).

Militianal Disposition: Immate (MINIM was courseled, warned and reprimendat.

Additional Discosition Mitigation: Recommended by Clinician, Ur. Puddhardt, Ru.D., Set [] 80 [Y] Carried Carried Yes M To []

Classification Personal: 11/2...

REFERRED TO CLASSIFICATION BPT/NAEA			
ACTION BY: (TYPED NAME)		SIGNATURE	DATE , TIME
T. Salby, Correctional Di	eutenant	16 32 cT	11/18 065
REVIEWED BY: (SIGNATURE)	DATE	CHIEF DISCIPLINARY OFFICER'S SIGNATURE	DATE
K. Jones, Carrelly Conce	1-23-04	► 2. Today W. T. B. Hidlich	2/6/08
	BY: (STAFF'S SIGNATU	RE)	DATE / TIME
COPY OF CDC 115 GIVEN INMATE AFTER HEARING	>	J. Lul	2/12/08/1930
CDC 115 (7/88)		/	

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION	REPORT - PART C				P#	4GE_/_OF_/_
CDC NUMBER	INMATE'S NAME		LOG NUMBER	INSTITUTION		TODAY'S DATE
E-67269	MARTIN		S07-11-0022R	S.V.S.P.		11/28/07
SUPPLEMENTAL	CONTINUATION OF:	Σ 115 CIRCUIMST	ANCES HEARING	IE REPORT	OTHER	

reached both aims out in an attempt to grab my belt. I guiddly jumped beak and slammed the foodport closed by kidding it with my foot. As the foodport was closing, the door slammed on the inmate's hand before he could retrieve it back into the cell. The immate's hand obstructed the foodport door from closing and the door remained open, and the I/M was still blocking the foodport. I sprayed my 5.0 around the face area and ordered the invate to back away. The innate complied and I was able to secure the foodport. When responding staff arrived I ordered the invate to back-up to the foodport and submit to handouffs. Invate MARVIN complied. Sergeant Williams instructed the control both officer to open the door. When the cell door was opened the immate was escorted out of his cell by Officer Shaffer and Officer Sanchez. The innate was evaluated by medical staff without further incident. The mose was gathered as evidence and placed in locker #9.

D. Beatty, Correctional Officer SIGNATURE OF WRITER DATE SIGNED 11107 GIVEN BY: (Staff's Signature) DATESIGNED COPY OF CDC 115-C GIVEN TO INMATE CDC 115-C (5/95)

Case 3:08-cv-04067-VRW Document 1-5 Filed 08/26/2008 Page 15 of 21 STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS PAGE OF **RULES VIOLATION REPORT - PART C** CDC NUMBER INMATE'S NAME LOG NUMBER INSTITUTION TODAY'S DATE F. ... 75 N.S. ga nomani, r · 4 / 4 / 1/1 **SUPPLEMENTAL** CONTINUATION OF: 115 CIRCUMSTANCES HEARING IE REPORT OTHER Hearing: 11/1/1. Time: TO Frue. May Postporement Explained: 'o.L. Innete's Realth: Target worker death of the book are and, MESS: locate world is not a carticle are in the Leathel failth farvion "Mistry Pysty. Poewer, birn al tealth speasarent was righted by the tighteet, o 17/1777, we named the following is no them are usual node from a that wolf case the innetter or considers. Difficulty is independently of filed disputy access and expresents), of a interest in the pecting that would inflicate the need foot the eniment of a Maif Nacistani? h: the Innote response that this commence we as fairfamily of presing exclusive to write the Challes such it. "Innate reparter" that hadden report on this head." There was receive at all miscroperine and se. 1) In your ordinion, did the dangle's mosted dispulse occount to probabilists to the brownies than I also the William A: 15. James in not firement with a merical disperien now foot to research with product of the leader social file. 3) If the imeta is found INUTY of the offeres, rep form are mental health factor over the Reprise Office study unitabler in essenting the landtop A: The Har allows, Innote my in 19197). The results of the assertant infinere that in does not speem the amening resulting in the CV or reverbee influered by maital illness. Re-Issue/Re-Hear Order Date: 11/2/07. Ra-Issue/Ra-Hear RWR copy issued on: 17/10/07. Terring started on: 01/10/09. least document deserb to invote on: M/M/MP. .A. postarie (Mie: Jan. 5.7. results issued date: Gertin. Time Constraints: Trust: ATTH was provided a provide for the Person No. wilded IT cover of the order of the One disciplinary officer. The marine was rold within 30 days of the date has income was passible a case of the in-lang/Re-ther IV. Commun, as one it last is being essent for the last of the community wells the original agricultion of the over the "ST-1-1-193). Staff Assistant: 15 01/9/00, Immediated Officer 1. Other was usual and an Oraff Assistant and an orasen as the explaining the tenthing passesses, disciplinary characters and as continuous from the tenths of Timble. Investigative Employee: On 10/11/77, Connectional Officer C. Deven was assigned a City Transitionative Cardovec. D.A. Referral: India mother one progress to the Dietrict Misses of the results of American consecution. Togeth MARI Office

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Case 3:08-cv-04067-VRW Document 1-5 Filed 08/26/2008 Page 17 of 21 m-q

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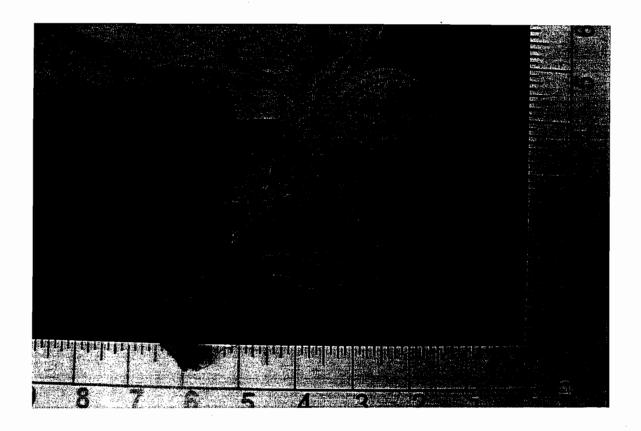
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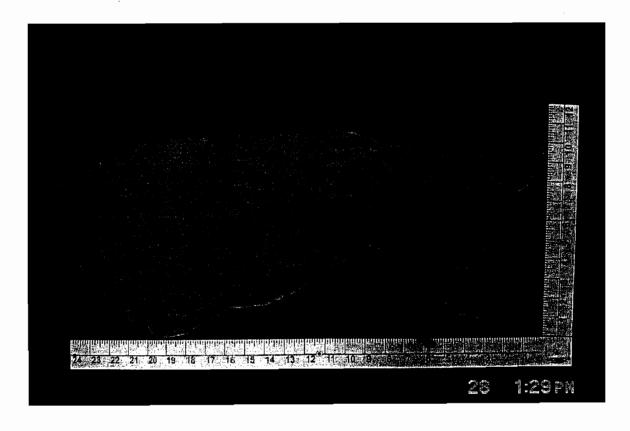
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DEPARTMENT OF CORRECTIONS

RULES VIOLATION	N REPORT - PART C	· · · · · · · · · · · · · · · · · · ·			P/	AGEOF
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Case 3:08-cv-04067-VRW Document 1-5 Filed 08/26/2008 Page 20 of 21 JUDGE COPY

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IN THE UNITED STATES DISTRICT COURT



FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN

Plaintiff,

NOTICE TO PRO SE PLAINTIFF RE: EARLY SETTLEMENT PROGRAM

M.S. EVANS, WARDEN, E+ DL,

Defendants.



Is the "Pro Se Prisoner Early Settlement Program" affiliated with Department of 1. Corrections and thus biased against me?

No. The program is named the "Pro Se Prisoner Early Settlement Program" because it deals with civil lawsuits that arise from events that occurred at California State Prisons located in the jurisdiction of the Federal Court for the Northern District of California. United States Magistrate Judge Nandor Vadas was appointed by Judge Henderson (not by the California Department of Corrections and Rehabilitation or any prison official) to hear cases referred to the Pro Se Prisoner Early Settlement Program, and he is neutral and independent.

What is a "stay"? 2.

A stay essentially puts your case on hold while the Court determines an issue; a

stay does not end or dispose of your case.

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What rights am I waiving if I participate in the Pro Se Prisoner Early Settlemen 3.

Program?

None. If the Court grants a motion to refer the case to the Pro Se Prisoner Early Settlement Program, the parties still retain their rights as to the federal civil lawsuit. If settlement negotiations do not resolve the lawsuit, then the parties go back to litigating the case through dispositive motions (such as a motion for summary judgment or motion to dismiss) or trial.

Will I get a quicker decision if I agree to participate in the Pro Se Prisoner Early Settlement Program rather than strictly maintain my federal lawsuit?

Yes. The Pro Se Prisoner Early Settlement Program is designed to resolve cases more quickly and easily. In fact, the settlement conference generally must occur within 45 days o the Defendants requesting representation from the Attorney General's Office or the Attorney General's first appearance on their behalf.

How does the Pro Se Prisoner Early Settlement Program work? 5. Settlement is a flexible, non-binding, confidential process in which a neutral person (Judge Vadas) facilitates settlement discussions. The settlement judge improves communication between the parties, helps parties articulate their interests and understand those of their opponent, probes strengths and weaknesses of each party's legal positions, identifies areas of agreement, and helps generate options for a mutually agreeable resolution of the case. During the settlement conference, you, as a pro se plaintiff, will get an opportunity to speak directly to the Court (Magistrate Judge Vadas) and Defendants' counsel. Since there is a stay of the briefing schedule, all you have to do in the meantime is prepare for the settlement conference, instead of replying to Defendants' dispositive motions.

Dated: //3//07

United States Magistrate Judge Northern District of California





OFFICE OF THE CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA
94102

RUSSELL MARTIN E-67269 A1-135 MULE CREEK STATE PRISON P.O. BOX Y09099 IONE, CALIFORNIA 95640

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